

Civil Action No. 96CV-5903

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A P P E A R A N C E S:

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and

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For the Witness, David Isbister
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1 VIDEOGRAPHER: We're going on the
2 record. The time is 9:21 a.m. This is the
3 videotape deposition of David Isbister, taken by
4 the plaintiff in the matter of Steven R. Arch, et
5 al., Plaintiffs, versus the American Tobacco
6 Corporation, et al., Defendants. Civil action
7 96CV-5903.

8 This deposition is being held at the
9 offices of Womble Carlyle Sandridge & Rice, 200
10 West Second Street, Winston-Salem, North Carolina,
11 on Wednesday, August 20th, 1997.

12 My name is John Girdler; I'm the video
13 specialist. The court reporter is Linda Russell.
14 We're here in connection with Waga & Spinelli,
15 with offices located at Four Becker Farm Road,
16 Roseland, New Jersey.

17 Counsel will now state their
18 appearances for the record and the court reporter
19 will swear in the witness.

20 MR. MAISTROS: Jack Maistros for the
21 plaintiffs.

22 MS. KNISELY: Sherrice Knisely for the
23 plaintiffs.

24 MR. BELASIC: Mark Belasic for
25 R.J. Reynolds Tobacco Company.

1 MR. MORROW: John Morrow, and next to
2 me, Jon Kurtz, attorneys for Mr. Isbister.

3 DAVID ISBISTER,
4 having been first duly sworn, was examined and did
5 testify as follows:

6 EXAMINATION

7 BY MR. MAISTROS:

8 Q. Good morning, Mr. Isbister. How are
9 you?

10 A. Good morning.

11 Q. Did I pronounce that right?

12 A. That is correct.

13 Q. Isbister?

14 A. Isbister.

15 Q. Could you please state and spell your
16 full name.

17 A. Full name: David Kent Isbister,
18 I-S-B-I-S-T-E-R.

19 Q. I'm going to ask you a series of
20 questions today. If you don't understand my
21 question, tell me; if you want to confer with your
22 counsel, tell me; if you want to take a break,
23 tell me. Okay?

24 A. Uh-huh.

25 Q. Who's your counsel today?

1 A. John -- Mr. John Morrow.
2 Q. And Mr. Kurtz?
3 A. And Mr. Kurtz. Correct.
4 Q. And who's paying your counsel today?
5 A. R.J. Reynolds Tobacco Company.
6 Q. And your date of birth?
7 A. November 9th, 1940.
8 Q. And your current address?
9 A. [DELETED].
10
11 Q. Do you have any plans to move in the
12 immediate future?
13 A. No.
14 Q. How long have you been at
15 [DELETED]
16 A. A little over four years.
17 Q. Are you married?
18 A. Yes.
19 Q. How long have you been married?
20 A. It will be 18 years in October.
21 Q. And your wife's name?
22 A. Deborah.
23 Q. Has she ever worked for Reynolds?
24 A. No.
25 Q. Do you have any children?

1 A. Yes, I do.
2 Q. How many?
3 A. Three.
4 Q. What's the range of their ages?
5 A. Oldest is 28, the youngest is 16.
6 Q. Have you been in the military?
7 A. No.
8 Q. Where did you go to high school?
9 A. Cooley High School, C-O-O-L-E-Y, Detroit,
10 Michigan.
11 Q. And did you graduate?
12 A. Yes.
13 Q. What year?
14 A. 1958.
15 Q. What did you do after high school?
16 A. I went to college.
17 Q. Where?
18 A. Michigan State University.
19 Q. What year did you graduate?
20 A. 1962.
21 Q. With what degree?
22 A. Bachelor of science in electrical
23 engineering.
24 Q. What did you do in 1963?
25 A. I worked.

1 Q. Where?
2 A. International Business Machines Corporation.
3 Q. For what years?
4 A. From fall of '62 until the spring -- well,
5 the fall -- let's say the fall of 1963. About a
6 year.
7 Q. What did you do for IBM?
8 A. I was a development engineer.
9 Q. And where did you go in '63?
10 A. I returned to school.
11 Q. Michigan?
12 A. No. Harvard Business School, Boston.
13 Q. What years?
14 A. '63 to '65.
15 Q. Did you obtain a degree?
16 A. MBA, master of business administration.
17 Q. Did you work from '63 to '65?
18 A. No.
19 Q. What did you do in '65?
20 A. I went to work again.
21 Q. Where?
22 A. Milgo Electronic Corporation, M-I-L-G-O.
23 Q. Where are they located?
24 A. Located in Miami, Florida.
25 Q. What years were you at Milgo?

1 A. I was at Milgo until early '67.
2 Q. And what did you do there?
3 A. I was a sales engineer.
4 Q. What type of products did they sell?
5 A. We sold electronic equipment; mainly to
6 government customers.
7 Q. And what did you do in 1967?
8 A. I left Milgo and I joined another company.
9 Q. Where?
10 A. Company was in Columbus, Ohio.
11 Q. What's it called?
12 A. Industrial Nucleonics Corporation.
13 Q. What did they do?
14 A. They made electronic equipment also.
15 Q. How long were you there?
16 A. I was there until March of 1976. With -- I
17 was with Industrial Nucleonics until March of
18 1976.
19 Q. In what capacity?
20 A. Sales engineer and regional sales manager.
21 Q. Were you asked to leave either IBM,
22 Milgo or Industrial Nucleonics?
23 A. No.
24 Q. You voluntary left all three of those
25 positions?

1 A. Yes.
2 Q. Where did you go in 1976?
3 A. I joined R.J. Reynolds Tobacco Company in
4 1976.
5 Q. Do you hold any licenses, other than a
6 driver's -- other than a driver's license? Any
7 special licenses?
8 A. I had a pilot's license.
9 Q. Do you have any other educational
10 degrees?
11 A. No.
12 Q. Certifications?
13 A. No.
14 Q. Have you ever taught?
15 A. Yes.
16 Q. What type of courses?
17 A. Production and operations management, and
18 strategic management, and new product development.
19 Q. Where did you teach those courses?
20 A. Wake Forest University.
21 Q. What years?
22 A. 1994, '95, '96, and '97.
23 Q. Still teaching?
24 A. Yes.
25 Q. What's your title at Wake Forest?

1 A. Instructor.
2 Q. When did you leave Reynolds?
3 A. At the end of 1991.
4 Q. Subsequent to 1991, did you have any
5 financial or business relationship with Reynolds?
6 A. Well, I had salary continuance. And I have,
7 now, retirement benefits from Reynolds.
8 Q. Were you ever a consultant for
9 Reynolds after 1991, in any capacity?
10 A. No.
11 Q. At Wake Forest did you receive any
12 grants money that originated from Reynolds?
13 A. Not that I know of.
14 Q. Do you belong to any associations,
15 societies, still related to the business of
16 tobacco?
17 A. You mean today?
18 Q. Yes.
19 A. No.
20 Q. Have you been consulted by anyone from
21 Reynolds or associated with Reynolds since 1991
22 with respect to any of the work you did while you
23 were employed at Reynolds?
24 A. I don't recall any such consultation.
25 Q. Has anyone contacted you since 1991 to

1 question you concerning what work you did while
2 you were employed at Reynolds?
3 A. You mean from the company?
4 Q. From anywhere.
5 A. From anywhere? I was contacted -- yes. The
6 answer is yes, uh-huh.
7 Q. By who?
8 A. By the -- by two men who identified
9 themselves from the Department of Justice in
10 Washington, D. C.
11 Q. Do you know their names?
12 A. I do not.
13 Q. Do you know if they were with the
14 strike force?
15 A. I do not know.
16 Q. When did they contact you?
17 A. I can't remember exactly.
18 Q. What year?
19 A. I think it was '94 or '95, but I'm not sure.
20 Q. What did they ask you?
21 A. They asked me some questions related to
22 ignition propensity of cigarettes.
23 Q. Do you know what they were
24 investigating?
25 A. I'm sorry?

1 Q. Do you know what they were
2 investigating?

3 A. They said they were investigating possible
4 antitrust violations on the part of the tobacco
5 industry.

6 Q. Have you heard from anyone from the
7 Justice Department since then?

8 A. I have not.

9 Q. Did you provide them a written
10 statement?

11 A. I did not.

12 Q. Were they taking notes?

13 A. They were not taking notes, that I could see.
14 I mean, there was no papers or pencils going.

15 Q. And how long did that interview last?

16 A. Ten minutes, maybe.

17 Q. Have you provided any statements to
18 anyone from the FDA or the FTC since 1991?

19 A. No.

20 Q. To the media?

21 A. No.

22 Q. To any other attorneys?

23 A. You mean other than Mr. Morrow?

24 Q. Other than Mr. Morrow.

25 A. No.

1 Q. Has anyone from -- any attorneys from
2 Jones Day or Womble Carlyle interviewed you since
3 1991?
4 A. Interviewed me. You mean have I talked to
5 any lawyers from those firms?
6 Q. Yes.
7 A. Yeah.
8 Q. Who have you talked to?
9 A. Mr. Belasic, Mr. Holton, and Chris -- no,
10 he's -- yeah, he's with Womble Carlyle. Chris --
11 I've forgotten his last name. And Marilyn.
12 Q. I'm sorry?
13 A. Marilyn.
14 Q. Marilyn Forbes?
15 A. I believe it's Forbes.
16 Q. Has that all been in preparation for
17 this deposition?
18 A. Yeah. Uh-huh.
19 Q. How many occasions did you meet with
20 those people?
21 A. People other than Mr. Morrow, you're asking
22 about?
23 Q. Yes.
24 A. Twice.
25 Q. For how long?

1 A. Let's see. First time, about two and a half
2 hours. Second time, about an hour and 15, 20
3 minutes. Something like that.
4 Q. And obviously you met with Mr. Morrow.
5 Did you meet with Mr. Morrow and any of those four
6 other individuals you identified together? Did
7 you meet as a group?
8 A. Yeah.
9 Q. Is that included in the two and a half
10 hours?
11 A. Yes.
12 Q. And the one hour?
13 A. Yes.
14 Q. Was Mr. Morrow at all of your meetings
15 with Mr. Belasic, Holton, or Forbes, or Chris?
16 A. Yes.
17 Q. Did you provide any of those
18 individuals documents?
19 A. Well -- yes. Uh-huh.
20 Q. What documents?
21 A. The documents that I brought with me today.
22 Q. Have you had -- you've brought
23 documents with you today, correct?
24 A. Yeah.
25 Q. Have you had possession of those

1 documents since you left Reynolds?
 2 A. Yes. Except for a brief time they resided at
 3 Mr. Morrow's office.
 4 Q. When did they reside at Mr. Morrow's
 5 office?
 6 A. Oh, it was last Friday, I guess, up until
 7 today.
 8 Q. Did you bring all the documents with
 9 you that related to your employment at Reynolds?
 10 A. Yes.
 11 Q. And you provided all those documents
 12 to your counsel?
 13 A. Mr. Morrow?
 14 Q. Yes.
 15 A. Yes.
 16 MR. MAISTROS: And those documents,
 17 Mr. Morrow, have been brought today?
 18 MR. MORROW: Yes. They're in the box
 19 over there.
 20 MR. MAISTROS: Has any been -- have
 21 any documents been removed that were provided to
 22 you in any --
 23 MR. MORROW: Are you deposing me?
 24 MR. MAISTROS: I'm just trying to do a
 25 chain of custody.

1 MR. MORROW: Okay. No, obviously
2 nothing has been removed.
3 MR. MAISTROS: Well, sometimes there's
4 privileged documents you have the right to remove.
5 MR. MORROW: Nothing's been removed.
6 MR. MAISTROS: Okay.
7 BY MR. MAISTROS:
8 Q. So all the documents that you took --
9 from where, your home?
10 A. Uh-huh.
11 Q. -- have been brought to the deposition
12 and produced today?
13 A. Yeah. That's correct.
14 MR. MAISTROS: You have no privilege
15 claims, Mr. Belasic, on any of those?
16 MR. BELASIC: No.
17 MR. MAISTROS: We could go through
18 them all, one by one, on the record; but to
19 expedite this, I'd ask that you just give me the
20 opportunity to look at them during lunch and I'll
21 decide if I'm going to mark all or any of them.
22 It's up to you.
23 MR. MORROW: I'd rather you go through
24 them on the record.
25 MR. MAISTROS: Okay. We'll do that

1 later.
 2 BY MR. MAISTROS:
 3 Q. Have you had your deposition taken
 4 before?
 5 A. No.
 6 Q. Have you been a party to a lawsuit
 7 before?
 8 A. Domestic.
 9 Q. Did you testify in that case?
 10 A. Did I testify in that case? Yes, I did.
 11 Q. Not in deposition, just in court?
 12 A. Just in court.
 13 Q. Any other testimony?
 14 A. I testified once in a case involving
 15 Reynolds. It was related -- well, I guess -- the
 16 answer is yes, there was other testimony.
 17 Q. What case was that?
 18 A. It was a case brought by a man named Dan
 19 Santich against the company for -- the -- the
 20 issue was a claim that Reynolds had released
 21 proprietary information he had provided to the
 22 company. And I was a witness in that case.
 23 Q. Where was that case pending?
 24 A. Stokes County, North Carolina.
 25 Q. Do you know what type of information

1 he alleged was provided, just generically?
 2 A. Related to an invention of his.
 3 Q. What type of invention?
 4 A. It was an invention to improve the gas
 5 mileage of cars.
 6 Q. Any other testimony?
 7 A. That's all I can recall.
 8 Q. Have you ever appeared before the FTC
 9 or the FDA to provide --
 10 A. I have not.
 11 Q. Have you ever submitted any documents
 12 or participated in the drafting of any documents
 13 that were submitted to the FTC or the FDA?
 14 A. I don't recall any.
 15 Q. Did you ever provide Reynolds any
 16 assistance in any other litigation?
 17 A. I don't recall any, other than that I've
 18 already told you about.
 19 Q. Have you ever provided any consulting
 20 work to any of Reynolds' attorneys with respect to
 21 any matters relating to your work at Reynolds,
 22 other than the invention you talked about.
 23 A. You mean non-Reynolds attorneys?
 24 Q. Reynolds or non-Reynolds attorney,
 25 related to your work at Reynolds.

1 A. You said consulting. Could you ask me the
2 question again? I kind of --

3 Q. In any capacity, have you ever been
4 called upon to provide any assistance to lawyers
5 with respect to any litigation related to matters
6 arising out of your employment, other than the
7 invention matter?

8 A. Assistance to lawyers. I don't recall any
9 such request relating to litigation.

10 Q. Other than meeting with your counsel
11 and Reynolds' counsel prior to this deposition,
12 did you do anything else to prepare for this
13 deposition?

14 A. Just put the documents in the box.

15 Q. Did you review any of the documents
16 or --

17 A. Did I look at those documents?

18 Q. Yes.

19 A. Sure.

20 Q. Did you look at them just to see what
21 was in there or did you actually read them and try
22 to remember what they were about?

23 A. Well, I -- I didn't try to re -- remember
24 what they were about; I just wanted to see what
25 was in there. I mean --

1 Q. Did you discuss with anyone at
2 Reynolds -- currently employed at Reynolds, your
3 deposition today?

4 A. No.

5 Q. Did you discuss your deposition with
6 anybody that was formerly employed at Reynolds?

7 A. No.

8 Q. Have you talked to anybody that worked
9 at Reynolds at any point in time that's been
10 deposited in this tobacco litigation?

11 A. I don't know. I mean, I see ex-Reynolds
12 people. I don't know if they've ever been deposed
13 or not. I -- I may have.

14 Q. You haven't had any discussions, in
15 any event, with anyone who's been deposed about
16 what went on at the depositions?

17 A. No.

18 Q. You've read no prior depositions in
19 any litigation?

20 A. No.

21 Q. What position were you hired for at
22 Reynolds?

23 A. Section head, R & D computer science.

24 Q. Computer science?

25 A. Uh-huh.

1 Q. Who hired you?
2 A. Bob Cundiff, C-U-N-D-I-F-F.
3 Q. What was his title?
4 A. I'm not sure.
5 Q. Was there a group above R & D computer
6 science?
7 A. A group above? You mean what organization
8 was it a part of?
9 Q. Yeah. If you can, give me the broad
10 categories that might have been above you at that
11 point in time, '76.
12 A. Well, it was part of the R & D department.
13 Q. Was there something between -- who was
14 head of R & D at '76?
15 A. Dr. Anders Laurene.
16 Q. Was there somebody below that
17 individual?
18 A. Bob Cundiff.
19 Q. How many people did you supervise, as
20 section head?
21 A. Approximately six, give or take one or two.
22 Q. How long were you section head?
23 A. Approximately two years.
24 Q. What did you do as section head of
25 computer science?

1 A. We developed computer systems to support
2 R & D.
3 Q. Software, hardware, both?
4 A. Both.
5 Q. Were you actually involved in anything
6 R & D was doing, other than setting up the
7 computers?
8 A. Well, only insofar as the computer support of
9 the operation.
10 Q. In other words, in these two years I'm
11 talking about, were you actually involved in
12 research related to tobacco?
13 A. Oh, no. Huh-uh.
14 Q. Can you give me an example of the type
15 of -- of work you were doing in those two years?
16 What type of support?
17 A. Yeah, I could give you an example. We -- we
18 set up a computer system to automate the FTC
19 smoking procedure. Laboratory automation, in
20 other words, primarily.
21 Q. You mean to analyze the results or the
22 actual testing itself?
23 A. No, no. The computers were hooked up to the
24 smoking machines that actually smoked the
25 cigarettes, and they recorded the data

1 automatically on-line.

2 Q. Did you supervise any researchers or
3 scientists? I'm trying to get a grasp of --

4 A. The group was composed of people who were
5 doing software work, primarily. I believe there
6 was at least one person who had a chem -- a
7 chemistry degree, but the person did not do
8 chemistry in our -- in our department. You know,
9 they were involved in writing software.

10 Q. What did you do after you left as
11 section head?

12 A. Well, we expanded the department to cover
13 more applications and so forth. And I -- I was
14 given a title promotion to manager of R & D
15 computer science. And that's what I did until
16 about 1980.

17 Q. Like from '78 to '80?

18 A. Uh-huh.

19 Q. How did that differ than what you were
20 doing previously?

21 A. It was just an expanded scope of -- of
22 operations.

23 Q. Did you still respond to or answer to
24 Mr. Cundiff?

25 A. No. I responded to Dr. Laurene, who was the

1 vice president of R & D at the time.

2 Q. And your title was -- I'm sorry --

3 A. I think it was manager of R & D computer
4 science.

5 Q. During this period of time of, say,
6 '76 to '80, were you responsible at all for
7 developing policy at Reynolds?

8 A. No.

9 Q. Were you involved in research
10 involving chemical makeup of tobacco?

11 A. No.

12 Q. '76 to '80 I'm talking about.

13 A. (Witness nods head.) Uh-huh.

14 Q. Were you involved in any fashion with
15 respect to nicotine?

16 A. In any fashion with respect to nicotine?

17 Q. '76 to '80.

18 A. I would say no.

19 Q. How about reconstituted tobacco?

20 A. No.

21 Q. Analyzation of additives?

22 A. Well, we had a computer system that was
23 associated with doing mass spectrometry, which
24 would be analysis of chemicals. But we only
25 supported it with reporting software. I mean,

1 that's the only thing I can think of that would --
2 could even conceivably be included in that
3 category you're talking about.
4 Q. Do you have any chemistry background?
5 A. No.
6 Q. Biology background?
7 A. Well, I took chemistry in college.
8 Q. It doesn't count. So did I; I don't
9 remember anything.
10 A. Okay. Yeah.
11 Q. Do you have any biology background?
12 A. Same answer, no.
13 Q. Did you ever hear of Alan Rodgman?
14 A. Yeah. Sure.
15 Q. That's some background.
16 Are you friends with Mr. Rodgman?
17 A. I wouldn't describe us as friends.
18 Q. Professional colleagues?
19 A. We were professional colleagues, yes.
20 Q. How many -- did your scope of
21 supervision increase since -- at '78 to '80?
22 A. I think it went to around 12 or 15, or
23 something like that.
24 Q. Did you ever -- in '76 to '80, did you
25 develop any computer programs for the purpose of

1 testing the chemical makeup of any smoke
2 compounds?
3 A. Well, only for the analytical
4 instrumentation, like the mass spectrometer, which
5 is a -- which was a device that was used to
6 identify chemicals. And our part of that was just
7 to provide printouts from the machine itself. I
8 mean, to automate the printing of the data and
9 stuff. And I think there was software that would
10 look at the spectrographs and -- and help them
11 with -- decide what -- you know, what chemicals
12 they were looking at. That's the only thing I can
13 remember.

14 Q. Not to diminish your role in '76 to
15 '80, but would it be fair to say you were more
16 support than you were bench scientist?

17 A. Oh, yeah. I was -- no way I was a bench
18 scientist.

19 Q. Did you ever work with Dr. Lippiello?

20 A. Lippiello. I don't recall Dr. Lippiello.

21 Q. Have you ever done any work with
22 nicotine analogues?

23 A. You mean scientific-type work?

24 Q. Any work.

25 A. Any work with nicotine analogues. I don't

1 recall any work with nicotine analogues.
2 Q. How about nicotine receptors?
3 A. No. I mean, I'm not a scientist.
4 Q. What did you do in 1980?
5 A. In 1980 I went to the -- I became manager of
6 traffic and distribution. I left the R & D
7 department entirely.
8 Q. Traffic is what?
9 A. Transportation, inbound and outbound.
10 Q. You mean getting the cigarettes out to
11 the public?
12 A. (Witness nods head.) Uh-huh.
13 Q. How long were you manager of traffic
14 and distribution?
15 A. About a year.
16 Q. Was that a promotion?
17 A. It was a lateral move.
18 Q. Did you apply for it or were you asked
19 to?
20 A. I was asked.
21 Q. Who was your supervisor then?
22 A. Initially, it was Joe Dempster. And then Joe
23 left for an extended educational experience of
24 some kind, and then, during that time, I reported
25 to Carroll Tompson.

1 Q. Did you use your computer skills in
2 that job?

3 A. To a minor extent. Some -- some computer
4 skills involved in it, but not much.

5 Q. What was your primary day-to-day
6 activity as manager of traffic and distribution?

7 A. Well, making sure that our customers got the
8 cigarettes, and making sure that our plants got
9 the stuff they needed to operate, on time.

10 Q. Did you have any responsibility or
11 role in the ordering of materials used in the
12 production of cigarettes?

13 A. No. Only the transportation of them, not the
14 ordering of them.

15 Q. Were you familiar with any of the
16 chemicals or compounds used in the manufacturing
17 process?

18 A. Well, I had a layman's familiarity with stuff
19 that was used to make cigarettes, from having
20 worked in the R & D department.

21 Q. When you talked about making sure the
22 material got where it was supposed to get or
23 get -- got to the plant, obviously this is
24 tobacco, correct?

25 A. (Witness nods head.)

1 Q. Were you in charge of that?
2 A. Yes, I was in charge of the transportation of
3 the tobacco.
4 Q. You didn't order it?
5 A. I did not order it.
6 Q. Somebody just told you there's tobacco
7 at place A, get it to place B?
8 A. That's exactly right.
9 Q. Did you transport any chemicals?
10 A. We contracted for transportation of
11 chemicals.
12 Q. Do you have recollection of, '80/'81,
13 contracting for transportation of ammonia?
14 A. I have no recollection of that.
15 Q. Freon?
16 A. I think, yes, the freon. And we may have
17 with ammonia. I mean, I -- you know, I didn't --
18 I did not follow the -- I did not follow every
19 item that was required to be transported.
20 Q. Were you only in the
21 transportation-related end for that one year?
22 A. Uh-huh.
23 Q. What did you do in '81?
24 A. I went back to R & D.
25 Q. What position?

1 A. My position was director of process
2 engineering.
3 Q. How did that differ from computer
4 sciences?
5 A. Well, we were involved in developing
6 equipment rather than computer systems. It was an
7 engineering group.
8 Q. Equipment for manufacturing?
9 A. For manufacturing cigarette products, tobacco
10 products, yes.
11 Q. And how long were you in that
12 position?
13 A. Let's see. Till roughly 1983.
14 Q. Who was your boss?
15 A. Initially it was Dr. Roy Morse.
16 Q. And then?
17 A. And then, later, Dr. Robert DiMarco.
18 Q. Did you apply for that position or
19 were you asked to go there?
20 A. I was told the position was open, asked if I
21 wished to be a candidate, and I said I did, and
22 then I was interviewed by Dr. Morse. That's my
23 recollection of how it happened.
24 Q. Who did you replace?
25 A. I didn't replace anyone; it was a new

1 organizational unit.

2 Q. Prior to '81, was Reynolds involved in
3 the design of its own equipment in the
4 manufacturing process?

5 A. Yes.

6 Q. What was your main day-to-day
7 activities as director of process engineering?

8 A. Well, to manage the development work on the
9 part of primarily engineers and technicians.

10 Q. For any particular type of machines,
11 or everything?

12 A. Well, it was a wide variety of projects.

13 Q. Did you work on the Premier project?

14 A. Our group was involved in some of the
15 preliminary work on Premier during that time.

16 Well, let's see. You're talking about
17 early '80s now. I don't think -- '81 to -- yeah,
18 I guess we did some preliminary work on the
19 Premier project.

20 Q. Do you recall what type of work?

21 A. No, I don't remember the details of it.

22 Q. In this '81 to '83 time period, did
23 you have goals that were given to you?

24 A. I'm sure I did.

25 Q. Written goals?

1 A. I'm sure they were.
2 Q. Did you play any role in the
3 development of those goals?
4 A. Sure.
5 Q. Or were they just given to you?
6 A. Oh, no, no. Nobody ever gave me any goals
7 and said: I don't care what you think, these are
8 your goals. I wouldn't have stood for that.
9 Q. Who would have been responsible for
10 giving -- or working with you on your goals? '81
11 to '83.
12 A. Basically my supervisor at the time, my boss.
13 Q. Morse and then DiMarco?
14 A. Yeah.
15 Q. During that two-year period, do you
16 recall the -- what you spent the majority of your
17 time working on, if that's possible?
18 A. That's fifteen years ago. I can't remember
19 what I spent the majority of my time working on.
20 Q. Were you developing machines for
21 making cigarettes or analyzing cigarettes or -- or
22 what?
23 A. Well, I could give you an example. Are you
24 after an example the kind of thing we did?
25 Q. Okay.

1 A. We developed a new ma -- a machine for
2 improving the process of moisturizing tobacco,
3 when it comes out of storage in what's called
4 primary processing. Put in steam and water.
5 Q. That's all it is, is steam and water?
6 A. (Witness nods head.)
7 Q. Does that expand the tobacco in any
8 fashion?
9 A. (Witness shakes head.)
10 Delaminates it. Tobacco is stored in
11 compressed form and it delam -- if fluffs it up,
12 opens it up, for further processing. That's a
13 type of project.
14 Q. Were you involved in -- in the '81 to
15 '83 time period, at all in reconstituted tobacco?
16 A. Yes. We had some people in the group who
17 were providing support work for reconstituted
18 tobacco, uh-huh.
19 Q. Could you describe for me what your
20 understanding of reconstituted tobacco is.
21 A. Well, my understanding of it is it's a way to
22 take stems and small pieces of tobacco and reclaim
23 them for use in the product -- or use them in the
24 product, if you will.
25 Q. And what work did you do related to

1 that, '81 to '83?

2 A. I don't remember the details of the projects
3 in '81 to '83.

4 Q. Do you recall any treatment processes
5 that were developed while you were in that
6 position, with respect to reconstituted tobacco?

7 A. I don't recall any -- "treatment processes,"
8 did you say?

9 Q. (Counsel nods head.)

10 A. I don't recall any.

11 Q. Have you heard of the G13 process?

12 A. Oh, yes.

13 Q. What is that?

14 A. It's -- it's used for expanding tobacco.

15 Q. Do you know when that was developed by
16 Reynolds?

17 A. It was in the early '70s, I believe. The
18 most -- it was done before I joined the company, I
19 believe.

20 Q. Could you describe that process for
21 me.

22 A. Well, you -- it operates on tobacco that's
23 already been cut. And you combine it with an
24 expanding agent and then apply heat, and it
25 expands the cellular structure of the tobacco.

1 Q. What's the primary purpose of using --
2 or using the expand -- expanded tobacco process?

3 A. Primary purpose, I would say, was to allow
4 the production of lower tar and nicotine
5 cigarettes. I mean, that's where we found its
6 biggest use -- biggest use. It was used some in a
7 lot of products, but --

8 Q. Was that the original purpose of the
9 expansion process?

10 A. I don't know. It was developed before I was
11 there.

12 Q. Do you know what expansion agent was
13 used while you were there?

14 A. I believe it was Fre -- it was Freon 11.

15 Q. And was that used up to the point in
16 time you left, to your knowledge?

17 A. No. We changed to carbon dioxide -- gee, I
18 can't give you the exact time on that. It was
19 after I was in process engineering, though. I
20 think it was -- I just can't -- I can't tell you
21 what the exact date was.

22 Q. Did you use anything other than
23 Freon 11, prior to switching to carbon dioxide?

24 A. Not in production. We did some development
25 work using other agents, but we never used them in

1 production.

2 Q. Were you ever involved in production
3 design, et cetera, any facilities outside the
4 United States?

5 A. No.

6 Q. Did you ever do any work for any
7 facilities outside of the United States?

8 A. Any work for -- I mean, we -- we exported
9 cigarette products from Winston-Salem. No.

10 And we licensed the G13 process to
11 other companies outside of the United States, and
12 we did provide technical support for some of those
13 licensees. Out of our process group, engineering
14 group.

15 Q. Was it still known as G13 after you
16 switched from freon to carbon dioxide?

17 A. I don't think so, but I don't know for sure,
18 to what it's known as today.

19 Q. Do you know what the G or the 13 stood
20 for?

21 A. I don't. I haven't got a clue. I never
22 knew.

23 Q. Do you know when, other than just
24 sometime in the '70s, they began using expanded
25 tobacco?

1 A. I'm sorry, I didn't understand your question.

2 Q. You said sometime in the '70s they
3 began using -- well, maybe it was -- they began
4 using --

5 A. I think it was in the early '70s, prior to
6 '75. But that's as -- that's as close as I could
7 place it.

8 Q. Do you know why they switched from
9 freon to carbon dioxide?

10 A. Yeah. The concern over the ozone layer in
11 the atmosphere; it was an environmental issue.

12 Q. Do you know, during the period of time
13 you were at Reynolds, what percentage of a typical
14 cigarette would contain expanded tobacco? Or was
15 all tobacco expanded?

16 A. No, not all tobacco was expanded. But I -- I
17 don't think there's a typical percentage. I mean,
18 it was different for every product.

19 Q. Was there any connection between the
20 expanded tobacco process and reconstituted
21 tobacco?

22 A. Connection between? Not that I know of. I
23 mean, other than the -- both of the items going to
24 the end product. That would be the only
25 connection.

1 Q. In the reconstituted tobacco process,
2 do you know what chemicals or additives are used?

3 A. I can't recall what they are.

4 Q. Did you develop any machinery
5 specifically for use for reconstituted tobacco?

6 A. Well, we worked on pieces of the process.
7 I -- I -- I recall that we developed, with an
8 outside supplier, a new disc refining machines for
9 the refining stages of the process, for example.
10 That's the only one that comes to mind, right off
11 the bat.

12 Q. Did you ever have any knowledge of
13 ammonia being used in the reconstituted tobacco
14 process?

15 A. It was used in the reconstituted tobacco
16 process.

17 Q. For what purpose?

18 A. It apparently gave an improvement in the
19 taste of the cigarettes, according to taste -- you
20 know, taste tests.

21 Q. Do you have personal knowledge of why
22 ammonia was used in the reconstituted tobacco
23 process?

24 A. I think I just answered that. It apparently
25 was -- improved the flavor of the cigarettes.

1 Q. What's that knowledge based on,
2 though?
3 A. Oh, just -- I would say discussions with the
4 product development people who were testing, you
5 know, various products. And taste testing --
6 MR. MORROW: We'd like to take a short
7 break.
8 MR. MAISTROS: Pardon me?
9 MR. MORROW: I'd like to take a short
10 break.
11 MR. MAISTROS: Oh, okay.
12 MR. MORROW: Would this be a good
13 time?
14 MR. MAISTROS: Any time.
15 VIDEOGRAPHER: We're going off the
16 record at 10:08 a.m.
17 (RECESS TAKEN FROM 10:08 A.M. TO 10:18 A.M.)
18 VIDEOGRAPHER: We're going back on the
19 record at 10:18 a.m.
20 BY MR. MAISTROS:
21 Q. Who -- or how did you originally find
22 out about an opening at Reynolds when you first
23 started?
24 A. I approached Reynolds about getting a job
25 there.

1 Q. Did you know anyone at Reynolds?
2 A. I knew quite a few people at Reynolds.
3 Q. Who did you know? I mean, was there
4 anybody that was instrumental in you approaching
5 Reynolds?
6 A. I approached -- the guy I approached was Bill
7 Hobbs, a man named Bill Hobbs.
8 Q. What was his title?
9 A. He was a chairman and CEO.
10 Q. After you were director of process
11 engineering, what position did you hold?
12 A. I became director of production operations
13 planning.
14 Q. And how long did you hold that
15 position?
16 A. It was about two and a half years.
17 Q. '85 or so?
18 A. It would be '83 through -- let me get this
19 right now. It's '83 through late '85. Let's say
20 early '83 through late '85.
21 Q. Was that a promotion?
22 A. Yes.
23 Q. And who was your direct supervisor?
24 A. Charles Snyder.
25 Q. What was his title?

1 A. Vice president of production.
2 Q. And what were your responsibilities as
3 director of production operations planning?
4 A. Short and long-range planning for -- for the
5 production department.
6 Q. Solely related to the manufacturing of
7 cigarettes?
8 A. Yes.
9 Q. In '83 to '85, did Reynolds Tobacco
10 manufacture anything other than cigarettes?
11 A. Yes.
12 Q. What was that?
13 A. Well, we produced packaging materials for
14 internal use. And we also sold some to other
15 companies.
16 Q. Did you make any of your own filters?
17 A. Yes. Cigarette filters, you're talking
18 about?
19 Q. Yes.
20 A. Yes. Uh-huh.
21 Q. What percentage of your cigarette
22 filters did you manufacture in-house?
23 A. I can't recall.
24 Q. Did you make --
25 A. Most of them. More than 50 percent.

1 Q. Did you make any of your own tobacco
2 paper? Outside tobacco paper, the wrap.

3 A. You mean the cigarette -- the white cigarette
4 paper on the outside? Did we produce that
5 ourselves?

6 Q. Yes.

7 A. No.

8 Q. Were you responsible at all for the
9 purchase of that paper?

10 A. No.

11 Q. As director of production operations
12 planning, is it oversimplification to say that you
13 had responsibility for making sure the cigarettes
14 were manufactured properly?

15 A. My boss had that responsibility. It was a
16 staff support job.

17 Q. But I'm trying to get a picture of
18 this position. You were more involved in the
19 day-to-day production of cigarettes as opposed to
20 the design or research --

21 A. Oh, no, no. We had nothing to do with the
22 design or research.

23 Q. Did you have anything to do with the
24 purchase of tobacco?

25 A. No.

1 Q. The purchase of -- of any additives or
2 flavorants?

3 A. No.

4 Q. Overseeing the effects of adding any
5 additives or flavorants?

6 A. We were mainly involved in planning and
7 scheduling. I mean, scheduling what would be run
8 where and that sort of thing. No, to answer your
9 question.

10 Q. You mean, like shifts or --

11 A. Yeah. How many shifts, how many people, how
12 many cigarettes, so forth. Things like that.

13 Q. Did you have involvement in, like,
14 overseeing that the machines were working
15 properly?

16 A. That was not a planning function. That's a
17 line manufacturing function. The plant manager
18 who had the machines is responsible for that.

19 Q. Did you have any interaction with
20 research during '83 to '85?

21 A. Yes. Uh-huh.

22 Q. What type of interaction?

23 A. Well, if we started up a new product in the
24 plant, you know, research would have to tell us
25 how -- you know, what the specs were on the

1 product. That sort of thing.

2 Or if they made a change, you know.

3 If the re -- if the development -- if the product
4 people wanted to change something in the product,
5 they had to authorize us to do that. I mean -- or
6 if we wanted to change something, we had to go to
7 them and get -- get their approval to do it.

8 Q. What responsibility or role, if any,
9 did you play with respect to reconstituted
10 tobacco, '83 to '85?

11 A. Only the scheduling of how much of it we
12 needed in a given time period. That's -- you
13 know, we -- we had to take the plan for production
14 and -- and tell the people making it how much we
15 needed.

16 Q. When you say -- you mentioned design
17 of the cigarettes. Were you talking about length
18 or chemical makeup or tobacco makeup, or both?

19 A. Well, it's -- what it's made of is -- it's
20 called the bill of materials, you know, what --
21 what goes in it. I mean, that -- that's the R & D
22 function that decides that. But manufacturing has
23 to know that in order to make them.

24 Q. When I use the word "flavorants," do
25 you know what I'm referring to?

1 A. Things that affect the taste, I guess.
2 Q. What role, if any, did you play with
3 respect to flavorants in '83 to '85?
4 A. We provided information on how much of them
5 would be needed to make a given amount of product.
6 I mean, based on the specs at R & D -- I mean, we
7 didn't determine that. But if -- if R & D said
8 there should be so much of something in each
9 cigarette and we had to make so many million
10 cigarettes, then we could calculate how much of
11 each stuff, or ingredient or whatever, was
12 required. That was our function. And we gave
13 that information to others who ordered the stuff.
14 Q. Do you know -- did R & D give you a
15 spec sheet, if you will, of a particular type of
16 cigarette and say this is how we want the end
17 product to be --
18 A. Yeah. You bet.
19 Q. -- this is what we want in it?
20 A. Yeah.
21 Q. And it was your job to make sure that
22 the spec sheet was followed?
23 A. You bet.
24 Q. Okay. Do you know what --
25 A. Well -- not in execution. The spec sheet --

1 it was my job to make sure that planning was done
2 to provide the materials to support that.
3 Q. Okay. Who --
4 A. The people who run the plant are the ones who
5 are responsible to determine that what's on the
6 spec sheet actually goes into the product.
7 Q. Okay. As part of the planning
8 process, were you responsible for making sure that
9 the -- anything that was added to the tobacco got
10 to the plant to be added to the product?
11 A. Got there in time, you mean?
12 Q. Got there, period. Like --
13 A. Yes, yes. We had a materials planning
14 function that looked after, you know, do we have
15 what we need, yeah.
16 Q. What type of materials were you
17 responsible for making certain it got to the
18 plant, other than tobacco?
19 A. Oh, lots. Many items. I mean, like
20 cigarette paper and filters, the filter toe and --
21 you know, there's a long list of items.
22 Q. How about chemicals?
23 A. All we did was calculate how much of each
24 flavoring formula was required. I -- well -- I
25 think that's right. You know, I cannot remember

1 exactly how the flavorant chemicals into that
2 worked.

3 Q. I'm sorry. Again?

4 A. I can't remember exactly how the planning of
5 the -- the flavorants in chemicals part worked.

6 Q. Well, I mean, we know you need paper,
7 filters, tobacco, wrap --

8 A. Uh-huh.

9 Q. -- probably printing devices. Do you
10 have any recollection of specific chemicals that
11 were used in the process, that were ordered on a
12 regular basis?

13 A. Uh-huh. Well, cocoa and licorice were both
14 used, for example. I remember those two, because
15 they were big items. I mean, they were used in
16 volume. Is that what you mean?

17 Q. Yeah. And ammonia, you mentioned
18 before?

19 A. Ammonia was used in the reconstituted sheet.
20 We -- we did not -- we did not schedule that -- or
21 we weren't involved in that. If I recall.

22 Q. Was the reconstituted tobacco aspect
23 of the manufacturing process separate from what
24 you were doing?

25 A. Yeah.

1 Q. Was there a similar type person that
2 was overseeing the planning of that?
3 A. Yeah.
4 Q. Who would that have been?
5 A. I don't recall.
6 Q. Would it have been --
7 A. We -- we gave them requirements, you know, of
8 how much of each type of reconstituted we need.
9 And they -- they planned it from there. That's my
10 recollection.
11 Q. Were there different types of
12 reconstituted tobacco?
13 A. There was more than one type. I don't know.
14 I can't remember how many types there were.
15 Q. Do you know how they differed?
16 A. No.
17 Q. Do you know if there were different
18 nicotine levels in the reconstituted tobacco?
19 A. I don't know.
20 Q. Do you know if any specific chemicals
21 were added during the manufacturing process to
22 affect the nicotine levels or yields?
23 A. Not that I know of. I mean, I don't know
24 what it would be. I mean ...
25 Q. Did you know what function any of the

1 chemical additives served in the manufacturing
2 process?

3 A. Well, some of them were to improve the taste
4 of the product. I knew that.

5 Q. Were any of them to reduce the tar?

6 A. Chemicals to reduce the tar. I don't -- I --
7 I don't know.

8 Q. Did you have any -- in '83 to '85, did
9 you work on any special or new products that you
10 can recall?

11 A. I can't recall specific new products. I'm
12 sure we worked on some of them, though. But I --
13 I can't pin them down as to time frame, you know.

14 Q. Did you work on Premier in that time
15 frame?

16 A. No. Huh-uh. You're talking about me and my
17 department, right?

18 Q. Yes.

19 A. No.

20 Q. I'm really -- I'm trying to get a
21 handle on what you did and what your department
22 did --

23 A. Uh-huh.

24 Q. -- to eliminate potentially 300
25 questions.

1 A. I understand.

2 Q. I'm not sure I have a good grasp yet
3 of what you did in '83 to '85. Are you saying
4 that the majority of your time was making sure
5 that the right people ended up on the right spots
6 at the right time?

7 A. On the right equipment, with the right
8 materials, to make the right products, to ship to
9 the right customers. You got the gist of it.
10 From the -- and materials from the right
11 suppliers.

12 And if they got ready to run something
13 in the plant and they didn't have what they need,
14 that was my phone. I got about 90 calls a day.

15 Q. That's all?

16 A. That's all.

17 Q. Did you have any responsibility for
18 safety, with respect to handling of ordered
19 supplies?

20 A. Safety? Safety's a line, not a staff --
21 Safety. Safety is a line, L-I-N-E,
22 responsibility, not a staff responsibility, in
23 the -- in the manufacturing operation. And I was
24 a staff person, so I would say to you I didn't --
25 '83 to '85, I was not responsibility for safety.

1 Q. Did you have any interaction with the
2 toxicology group in that time period?
3 A. Hmmm. I don't remember any. I may have,
4 though.
5 Q. Do you know Wallace Hayes?
6 A. Yes.
7 Q. How do you know him?
8 A. Through working at Reynolds. He was a
9 scientist in the R & D department.
10 Q. Did you have any interaction with him,
11 other than just knowing he worked at Reynolds?
12 A. Yes.
13 Q. What interaction?
14 A. He was involved in safety issues, for one
15 thing, for example. That's one area I can recall.
16 Q. Do you know why he left Reynolds?
17 A. I do not know why he left Reynolds.
18 Q. What type of safety issues was he
19 involved with?
20 A. Well, safety in -- in the sense of exposure
21 of employees to chemicals or other things in the
22 workplace; as an example, air quality. Those
23 kinds of things.
24 I mean, his group was involved in
25 those. OSHA requirements, Occupational --

1 Occupational Safety and Hazard Administration
2 requirements, that kind of stuff.

3 Q. Was he involved in testing of anything
4 that went into the cigarettes itself?

5 A. I don't know. That was an R & D
6 responsibility, though, testing -- and quality
7 assurance, too. I don't know what kind of testing
8 you're talking about.

9 Q. Do you know Anthony Colucci?

10 A. No, I don't know Colucci. I don't remember
11 him.

12 Q. Up to this point in time, had you
13 signed a non-compete or a confidentiality
14 agreement?

15 A. I think I did that when I joined the company.

16 Q. Both? A non-compete and a
17 confidentiality?

18 A. I believe so. Uh-huh.

19 Q. Did you belong to any -- up to this
20 point in time, '85, any RJR-related associations
21 or special boards or panels or committees?

22 A. No. Other than just ad hoc committees to
23 work on some kind of issue, you know. I'm not
24 quite sure what you're driving at or asking about
25 there. You mean --

1 Q. There's -- have you ever heard of the
2 scientific advisory board?
3 A. Yeah, I've heard of it.
4 Q. Didn't participate?
5 A. I didn't -- no. Nothing like that.
6 Q. Any professional associations related
7 to the tobacco manufacturing process?
8 A. Huh-uh. No.
9 Q. Did you ever have interactions with
10 other tobacco manufacturers?
11 A. Very little.
12 Q. With anyone in particular?
13 A. Well, I had some with G13 licensees, for
14 example. Not -- not -- you know, I -- I was not a
15 part of any industry groups or anything like that.
16 Q. In the interactions you had with
17 respect to G13, was G13 promoted in any fashion as
18 a way to increase profits by just expanding the
19 volume of tobacco in every cigarette?
20 A. It may have been sold to licensees that way.
21 It did allow it -- a cigarette to be made with
22 less tobacco. There was an economic advantage to
23 G13 also.
24 Q. Did you have any role with respect to
25 G13 in '83 to '85?

1 A. No. Only -- only in the sense of planning
2 how much of it was going to be needed to make the
3 products we had to make, you know.
4 Q. Did the spec sheets that you received
5 from -- from who? Design? Is there a group,
6 "design"?
7 A. Uh-huh. Product design people, yeah.
8 Q. Did those spec sheets specify the
9 amount of G13 in every cigarette?
10 A. Yeah. Sure.
11 Q. And the amount of G13 varied in each
12 cigarette?
13 A. Well, it varied with different end brand --
14 end cigarette items, yeah.
15 Q. Did you have any knowledge of -- of --
16 well, let's start over.
17 Would you take it as a given that your
18 cigarettes that were produced had different tar
19 and nicotine levels?
20 A. Yes.
21 Q. Do you have knowledge of what factors
22 played a role in the tar and nicotine levels of
23 any given cigarette?
24 A. You know, I'm not an expert in that area.
25 There are lots of factors that go into that.

1 That's all I can tell you. I mean -- it's not
2 any one thing. There's a bunch of stuff that gets
3 into that.

4 Q. Did you ever analyze what one factor's
5 role might be over another factor, or did you just
6 make the cigarette the way you were told?

7 A. We made them according to the specs from
8 R & D, unless we had a problem of some kind in
9 manufacturing them. R & D specified how to do it,
10 and we did it that way.

11 If the -- if we had -- if we had an
12 end product that for some reason wasn't meeting
13 the specs it was supposed to meet, then we would
14 call them in to try to help solve the problem.
15 But other than that, we made -- we made them the
16 way they said to make them.

17 Q. How would you -- how would you make
18 certain that the end product met the specs you
19 were given?

20 A. It was tested.

21 Q. Who tested it?

22 A. The quality assurance department.

23 Q. That was outside of your function?

24 A. It was outside of my function, yes, sir.

25 Q. Do you know what they tested for?

1 A. A wide variety of parameters. And I don't
2 recall -- I mean, I wouldn't know all of them.
3 Q. Is one of the design specs the amount
4 of nicotine yield of the cigarettes?
5 A. You have to ask R & D about that. I -- I
6 don't know.
7 Q. Did you, during any of your years of
8 employment at Reynolds, get involved in any
9 manufacturing process, per se, that a specific
10 purpose or goal was to assure that the product had
11 a certain nicotine yield?
12 A. Yes. Uh-huh.
13 Q. Which process was that?
14 A. It was a process for removing nicotine from
15 tobacco.
16 Q. What was that process called?
17 A. KDN.
18 Q. KDM?
19 A. KDN as in Nancy.
20 Q. N.
21 A. Uh-huh.
22 Q. What did that stand for?
23 A. I don't know. I think -- I don't know what
24 the initials stood for.
25 Q. When did that process commence?

1 A. Before I joined the company.
2 Q. Was it used in all cigarette
3 manufacturing, or some, or ...
4 A. I think it was used in -- it was used in part
5 of the manufacturing -- some -- some products had
6 it and some didn't, I think.
7 Q. And was the purpose to remove all
8 nicotine?
9 A. I don't know.
10 Q. Do you know how it was accomplished?
11 A. It was a steam distillation.
12 Q. And what -- this is the entire period
13 you were there?
14 A. As far as I know. Yeah.
15 Q. What would they do with the removed
16 nicotine?
17 A. It was incinerated.
18 Q. On-site?
19 A. On-site. Yes, sir.
20 Q. Any specific brands you can think of
21 where that process was used?
22 A. No, I can't remember that.
23 Q. Do you know if that was all of the
24 tobacco in any of those given cigarettes, or a
25 portion?

1 A. I don't know.
2 Q. Was there an end tobacco product
3 called denic -- denicotized (sic) tobacco that was
4 used in cigarettes?
5 A. Not that I recall.
6 Q. Did the name ever change?
7 A. Of the process, you mean?
8 Q. Yes.
9 A. Not that I recall.
10 Q. Did you have any role in the
11 development of the process?
12 A. No, I did not.
13 Well, I take that back. When I was in
14 process development, we did have something to do
15 with a new incinerator; you know, maintenance kind
16 of stuff.
17 Q. During your -- other than that, during
18 your '76 to '91 employment at Reynolds, did you
19 develop any processes that had the specific
20 purpose of removing or controlling the levels of
21 nicotine in the tobacco?
22 A. We looked briefly at an alternative process
23 for removing nicotine.
24 Q. What was that?
25 A. Used super critical CO2.

1 Q. What year was that?

2 A. Oh, Jeeze. It was when I was in process
3 engineering; that's as close as I can tell you.

4 Q. What is super critical COT -- CO2?

5 A. If you get -- super critical means, if you
6 get a gas at a high enough pressure, it acts like
7 liquid. And you can use it for extraction, like
8 you'd use water or steam.

9 Q. You just did tests on that? It was
10 never used?

11 A. It was never used in production, no.

12 Q. What would have been the goal of using
13 that process over normal CO2?

14 A. Well, we didn't really know. It was possibly
15 more economical, possibly more efficient
16 extraction, those kinds of things. But my
17 recollection is, in the end, it didn't pan out. I
18 mean, it didn't provide any advantages, that we
19 could tell, over what we had.

20 Q. Did you have any involvement, in your
21 years at Reynolds, with respect to developing any
22 FTC testing smoking machines? Other than the --

23 A. Only the computer hookup part. You know, to
24 acquire the data automatically.

25 Q. Were you involved at all in the

1 Barclay litigation?

2 A. No, I wasn't involved in the litigation.

3 Q. Were you aware of it?

4 A. Yes, I heard something about Barclay
5 litigation. But I can't recall any of the
6 details.

7 Q. Were you knowledgeable of what
8 biological research was going on at Reynolds while
9 you were there?

10 A. Not -- not -- not the details of it.

11 Q. Did they have biological research
12 facilities when you began?

13 A. I don't know. They did when I left.

14 Q. And who was in charge of that when you
15 left?

16 A. Well, it was part of R & D. Dr. DiMarco.

17 Q. Did you ever have any purpose or
18 reason to become aware of or knowledgeable
19 concerning the biological research that was done
20 at Reynolds?

21 A. You know, in my final job at Reynolds I was
22 responsible for the R & D department. And in that
23 connection --

24 Q. Okay.

25 A. -- I had some knowledge of it. Some level of

1 knowledge about it.
2 Q. What did you do after '85?
3 A. I became plant manager of one of the
4 cigarette factories.
5 Q. Which one?
6 A. That was -- that was in December of '85.
7 Q. Till when?
8 A. March of '87.
9 Q. Which facility?
10 A. Number 1 cigarette; the downtown plant.
11 Q. Did that make a wide variety of
12 cigarettes or --
13 A. Uh-huh. A lot of different styles and
14 brands.
15 Q. As plant manager, did you then have
16 responsibility for making sure that the right
17 chemicals ended up in the cigarettes?
18 A. You bet.
19 Q. Was that a promotion?
20 A. Yes.
21 Q. How many shifts did that plant run?
22 A. Three.
23 Q. Do you have any idea if it's running
24 today, as we sit here?
25 A. It's not running today. I know it's not

1 running today.
2 Q. Do you know when it stopped running?
3 A. Can't recall.
4 Q. How many people did you supervise?
5 A. Approximately 2,000.
6 Q. Did you have responsibility for
7 ordering chemicals?
8 A. No. They were -- no.
9 Q. As plant manager, was there anyone
10 above you at that facility?
11 A. Not at that facility, no, sir.
12 Q. Who was your boss?
13 A. Charles Snyder.
14 Q. What was his title?
15 A. Vice president of production.
16 Q. Who was responsible for ordering
17 chemicals, '85 to '87, that was used at that
18 plant?
19 A. Purchasing department.
20 Q. Who told them what chemicals to order?
21 A. Research and development told them which
22 ones. The specs and the production planning told
23 them how many, how much.
24 Q. Do you know what chemicals were used
25 in the manufacturing process from '85 to '87?

1 A. I can't remember all of them. I mean --
2 Q. Do any stick out in your mind?
3 A. I know licorice and cocoa were used, for
4 example.
5 Q. And freon?
6 A. I think -- I'm not sure whether freon was
7 still in use, '85/'87, or not.
8 Q. And ammonia?
9 A. I believe it was in use '85/'87.
10 Q. Did they make reconstituted tobacco at
11 plant number 1?
12 A. No. That was made in another part of the
13 operation.
14 Q. Did you ever have plant
15 responsibilities over reconstituted tobacco?
16 A. No. I was never a plant manager in one of
17 those plants, if that's what you're asking.
18 Q. Was it made at a particular plant?
19 A. There were three plants that made it.
20 Q. Which three?
21 A. 90, 92, and 603.
22 Q. How many production plants did
23 Reynolds have when you were there?
24 A. About 15.
25 Q. In '85 to '87 time period, did you

1 play any role in determining the amounts of
2 chemicals that went into the cigarettes?

3 A. No.

4 Q. That was given to you by R & D?

5 A. Yes, sir.

6 Q. Are there spec sheets for each
7 cigarette, if I were to figure out how to -- what
8 to call them, that could be produced for any given
9 cigarette for any given year?

10 A. Yes.

11 Q. Do those spec sheets contain tar and
12 nicotine yields?

13 A. I don't know.

14 Q. At the beginning of the manufacturing
15 process at a plant, is it known what the tar and
16 nicotine yields should be at the end of that
17 manufacturing process?

18 A. I think that it's known within a range. I
19 mean, you know -- yeah. I mean, there's an
20 expected value, probably. I -- I don't know.
21 I -- I've never seen the sheets. I don't know
22 what's on the sheets. I mean, it sounds like
23 you're asking me -- I'm not sure how this differs
24 from the last question.

25 Q. Now you're plant manager. I'm talking

1 about you're plant manager '85 to '87.

2 A. Right.

3 Q. Did you see the sheets during that
4 time period?

5 A. Only occasionally, I mean, on the floor.

6 Q. How long was a typical spec sheet for
7 a cigarette?

8 A. Several pages. I don't -- I don't know.

9 Q. Would it list all the chemicals that
10 were used in the manufacturing process?

11 A. I don't think so. I think it -- it had --
12 for example, the flavor -- I think it listed
13 cocoa, for example.

14 But the flavorings were assembled
15 elsewhere and there was a -- you know, a code
16 number or something for the flavorings.

17 Q. If the exact flavoring name was not
18 used, at least there was a code name for the
19 flavoring?

20 A. Yeah. There was some -- right.

21 Q. But the spec sheets would contain --

22 A. Something that you could identify the item,
23 you know, from the can or barrel or whatever,
24 would match what was on the spec sheets, so you
25 knew you were using the right stuff. That was the

1 basic drill.
2 Q. Would it tell you which tobacco to
3 use?
4 A. Oh, yeah. Yeah. The blending was done in
5 the cigarette plants, yeah.
6 Q. And it would tell you how much, if
7 any, reconstituted tobacco to use?
8 A. Absolutely.
9 Q. Were there different levels of
10 expanded tobacco? I mean, is there --
11 A. In different products, yes.
12 Q. How do the levels differ? How do
13 they -- how is the expansion process handled, in
14 terms of -- is it expanded a hundred percent or
15 50 percent? Are there different levels like that?
16 A. No. The amount of -- the amount of the
17 expanded tobacco, mixed in with the non-expanded
18 part, was varied for different products.
19 Q. Do you know if there were different
20 types of expanded tobacco?
21 A. Yes. There was more than one.
22 Q. Do you know how they differed?
23 A. No.
24 Q. The filters varied on the cigarettes?
25 A. Uh-huh.

1 Q. And the wrap -- when I say "the wrap,"
2 the outside paper, did that vary on the
3 cigarettes?

4 A. Yes, sir.

5 Q. Do you recall where the majority of
6 the outside cigarette paper wrap was purchased
7 when you were plant manager?

8 A. The two largest suppliers were Ecusta
9 Corporation and Schweitzer, I believe.

10 Q. Do you know who was responsible for
11 testing the quality control of the outside wrap?

12 A. Quality assurance. On in -- on incoming
13 materials, are you talking about?

14 Q. Yes.

15 A. Yes. QA.

16 Q. Who was that in the '85 to '87 time
17 frame?

18 A. You mean the -- the head person?

19 Q. Yes.

20 A. Richard Morgan.

21 Q. Richard?

22 A. Morgan.

23 Q. What did you do after '87?

24 A. Let's see. March '87 I became vice president
25 of manufacturing.

1 Q. How did your job change?

2 A. A lot -- a lot more hours.

3 How did my job change? I had wider
4 responsibilities. I still had a line
5 manufacturing job, but I had wider
6 responsibilities than one plant.

7 Q. Did you leave plant number 1 and go to
8 another office?

9 A. Uh-huh. I moved to the Reynolds building.

10 Q. How long were you vice president of
11 manufacturing?

12 A. Until June of '89.

13 Q. Who was your boss when you were vice
14 president of manufacturing?

15 A. Well, I had a couple different ones. The
16 first one was Clyde Fitzgerald. And then the
17 second one was Peter Hoult, H-O-U-L-T.

18 Q. And their titles were?

19 A. Clyde's title was executive -- senior
20 executive vice-president of marketing and
21 operations, is my recollection of that. Peter
22 Hoult's title, I believe, was executive
23 vice-president of marketing and operations.

24 Q. And as vice president of
25 manufacturing, you had responsibility over all the

1 plants?
 2 A. Yes.
 3 Q. Did you have any role or association
 4 with Premier, '87 to '89?
 5 A. Very little. That was in a separate
 6 organizational unit at that time.
 7 Q. What was that called?
 8 A. I can't recall the name of it.
 9 Q. When it actually got time to produce
 10 Premier, weren't you involved in the manufacturing
 11 process?
 12 A. No. They had their own manufacturing
 13 equipment for it, for test market.
 14 Q. Did your interactions with research
 15 increase, stay the same, change in any fashion,
 16 '87 to '89?
 17 A. I would say they -- with research, did you
 18 say?
 19 Q. Yes.
 20 A. Well, I had probably more involvement with
 21 the R & D department, in total, during that time
 22 than I did as plant manager.
 23 Q. Who was your primary contact?
 24 A. Bob DiMarco. Dr. DiMarco.
 25 Q. What specific issues did you have

1 contact with Mr. DiMarco concerning?

2 A. I was interested in anything new coming out
3 of R & D that would impact the manufacturing
4 operation, with regard to equipment or any other
5 aspect of production. Those issues that would
6 affect what we had to produce.

7 Q. Did you have any involvement in any
8 research or processes that related to the control
9 of the nicotine levels in the cigarettes? '87 to
10 '89.

11 A. Don't recall any.

12 Q. Up to '89, were you aware that the --
13 at least the level of nicotine in any given
14 cigarette was a part of the specification? Within
15 a range.

16 A. Yeah. I think the -- yeah. Within a range,
17 yes.

18 Q. Was the level of nicotine that each
19 particular cigarette yielded something that
20 quality control checked at the end of the process?

21 A. Yes.

22 Q. Were you aware of any specific portion
23 of the process that related specifically to the
24 level of nicotine in the end product?

25 A. Well, the KDN -- I mean the denicotinize

1 process did.

2 Q. How about any of the -- I'm sorry.

3 A. And, you know the -- it's a hard question to
4 answer. The blending -- I mean, the blending of
5 the tobaccos certainly affected nicotine. You use
6 more higher nicotine tobaccos.

7 But, I mean, within the specs that we
8 had and what we were supposed to use, there wasn't
9 anything I know of that was affecting the nicotine
10 level directly.

11 Q. You don't know if the ammonia affected
12 the nicotine yields?

13 A. I don't know if it affected nicotine yields.

14 Q. Did the reconstituted tobacco that was
15 used affect the yields? Or do you consider that
16 part of the blending?

17 A. It's part of the blending. I don't recall
18 the nicotine content of the reconstituted tobacco.

19 Q. Well, I assume, maybe wrongfully, that
20 there was different nicotine levels in different
21 reconstituted tobacco?

22 A. I don't know about that. I don't -- I don't
23 know.

24 Q. Well, there were different types or
25 specified -- or reconstituted tobacco, was there

1 not?

2 A. There was more than one. I remember that
3 much, yes.

4 Q. Do you recall in the 'eighty -- up to
5 the '89 time period of any specific discussions
6 with R & D concerning the issue of nicotine?

7 A. Issue of nicotine.

8 Well, any product we made -- any new
9 product, you know, would have a -- a range of
10 values on -- on final tar and nicotine, that we
11 were -- we were shooting to achieve. I remember
12 that kind. So if we started up a new product, we
13 would be looking at what kind of results we were
14 getting there.

15 And we would try to maintain those
16 over time. I mean, if we -- we started getting
17 readings that looked like they were out of whack,
18 we'd try to fix that.

19 Q. Did you ever encounter any
20 circumstances whereby, after the product was
21 manufactured, that the nicotine tar yields changed
22 overtime? For example, if the cigarette was on
23 the shelf for a certain amount of time.

24 A. I don't recall anything about that.

25 Q. Do you ever recall any issues with

1 respect to the type of wrap -- outer wrap used in
2 the cigarette package affected nicotine tar
3 yields?

4 A. You mean the -- the poly -- the final outer
5 seal or wrap on the pack --

6 Q. Yes.

7 A. -- affecting tar and nicotine yields?

8 I don't recall anything about that.

9 Q. Do you remember any issues about the
10 long-term moisture content of the cigarettes
11 affecting tar and nicotine yields?

12 A. I don't recall anything about that.

13 Q. Reynolds is now advertising a
14 cigarette with -- I think it says "no additives"
15 on the billboard.

16 A. Uh-huh.

17 Q. Were you involved in any products
18 similar to that when you were at Reynolds?

19 A. We had a product called Real, I think, that
20 was test marketed.

21 Q. How did that --

22 A. And it was all natural, I believe.

23 Q. How did that do?

24 A. It failed in test market.

25 Actually, it was national. Take that

1 back. It was launched nationally, and failed.

2 Q. Was it truly no additives or just
3 reduced additives?

4 A. I don't know. I don't know.

5 Q. Did you develop any of the processes
6 for the manufacturing of that cigarette?

7 A. No.

8 Q. Did you oversee any plants when that
9 cigarette was manufactured?

10 A. I think I was in planning then. No.

11 Q. You're aware, are you not, of the
12 alleged health risks related to smoking?

13 A. Yes.

14 Q. Did any portion of your work at
15 Reynolds involve looking at those issues?

16 A. Well, as I said, we -- we had -- in process
17 engineering, we did some preliminary work on
18 Premier. And in my last job, when I was
19 responsible for R & D, we were continuing that
20 work. And -- and that work was aimed at trying to
21 address some of those issues, among other things.

22 Q. Was it your understanding that one of
23 the purposes of Premier was to address alleged
24 health risks related to smoking?

25 A. Yes.

1 Q. Do you know what the primary goal of
2 Premier was?

3 A. No.

4 Q. Do you know how it was hoped that
5 Premier would address the alleged health risks
6 related to smoking?

7 A. By building the product in a different way,
8 you would have less of some chemical compounds
9 that were of concern in smoking -- in smoking and
10 health risks.

11 Q. Which compounds?

12 A. Oh, I couldn't tell you. You'd have to ask
13 Dr. DiMarco about that.

14 Q. Do you have an opinion as to whether
15 or not there are health risks related to smoking?

16 MR. BELASIC: Object to the form.

17 That's an improper opinion question.

18 MR. MAISTROS: You can still answer,
19 though.

20 THE WITNESS: I can still answer that?
21 Could you repeat it, please.

22 BY MR. MAISTROS:

23 Q. Do you have an opinion with respect to
24 the alleged health risks related to smoking?

25 A. I think there is scientific evidence that

1 smokers are at higher risk for certain diseases.
2 Q. Do you believe there is a correlation
3 between smoking and health risks, such as --
4 MR. BELASIC: Object to the form.
5 BY MR. MAISTROS:
6 Q. -- the ones that you had in mind?
7 A. I didn't hear the end of the question.
8 Q. You didn't say any specific health
9 risks. Are you talking about lung cancer, for
10 example?
11 A. You know, I don't think I'm qualified to
12 discuss the specific risks associated with
13 smoking.
14 Q. Do you smoke?
15 A. I do not.
16 Q. Did you ever?
17 A. Yes.
18 Q. What years?
19 A. I smoked from 1959 through 1963, and from
20 1976 through 1991.
21 Q. And why did you quit in '63?
22 A. It was too expensive.
23 Q. How about in '91?
24 A. Um, I decided I wanted to quit because of my
25 age.

1 Q. Anything related to your health?

2 A. Not directly, no.

3 Q. Indirectly?

4 A. Only the possibility of elevated risk of
5 disease.

6 Q. Did you, in your years at Reynolds,
7 have involvement in any specific processes, other
8 than Premier, that you mentioned, that had as its
9 goal reduction of alleged health risks related to
10 smoking?

11 A. I don't remember any. There may have --
12 there -- I think there was some work -- I -- I
13 don't recall the details of any other work along
14 those lines.

15 Q. Do you know of any specific research
16 that was done at Reynolds, while you were there,
17 that looked at a way to reduce health risks
18 related to smoking?

19 A. I believe R & D looked at some other
20 approaches, other than the Premier approach, but I
21 don't remember any of the details of that.

22 Q. Do you know of any research done at
23 Reynolds to determine if there was actually a link
24 between smoking and any of the alleged health
25 risks related to smoking?

1 A. I don't know about that.
2 Q. Are you familiar with the concept of
3 key issues?
4 A. Key issues?
5 Q. At Reynolds.
6 A. In -- in the strategic planning. I mean, I
7 don't know what you're referring to. Yeah, I've
8 heard that term, "key issues," yes.
9 Q. That's what I'm referring to. Did you
10 have any role in the development of those key
11 issues?
12 A. Sure.
13 Q. What role?
14 A. Well, I -- for whatever organizational unit I
15 was in, I was involved in an update of the
16 strategic plan every year.
17 THE WITNESS: I need another break, if
18 we could take one.
19 MR. MAISTROS: Sure. Okay.
20 VIDEOGRAPHER: We're going off the
21 record at 11:14 a.m.
22 (RECESS TAKEN FROM 11:14 A.M. TO 11:35 A.M.)
23 VIDEOGRAPHER: We're going back on the
24 record at 11:35 a.m.
25 //

1 BY MR. MAISTROS:

2 Q. We'll go into more detail in some of
3 the work you did in your previous positions, but I
4 just want to have a handle on where you were when
5 you left. What did you do in 1989?

6 A. I became senior vice president of technology,
7 leaf, tobacco processing and packaging.

8 Q. Was that a promotion?

9 A. Yes.

10 Q. How did that differ than what you were
11 doing from seven -- '87 to '89?

12 A. Well, I was responsible for different areas.
13 I -- I had responsibility for the R & D department
14 and the packaging function; those were both new.
15 Packaging was a subsidiary company.

16 Q. What was the company?

17 A. The Archer Company.

18 Q. And who was in charge of R & D in '89?

19 A. Dr. DiMarco.

20 Q. So you became Dr. DiMarco's boss?

21 A. Uh-huh.

22 Q. How long did you hold that position?

23 A. Till I left the company at the end of '91.

24 Q. And why did you leave in '91?

25 A. I wanted to do something else.

1 Q. What did you want to do?
2 A. Well, I wasn't quite sure at that time, but I
3 just thought it was a good time for me to leave,
4 and I left.
5 Q. Was that a voluntary separation?
6 A. Yes.
7 Q. From '76 to '91 were you ever
8 disciplined or demoted?
9 A. No.
10 Q. Did they have a formal review process
11 at Reynolds?
12 A. Yes. You mean personnel review, performance
13 review?
14 Q. Right.
15 A. Yes.
16 Q. Were they annual reviews?
17 A. Annual, yes, sir.
18 Q. Were they written?
19 A. Yes.
20 Q. From '89 to '91, in your role as vice
21 president of -- that was all one --
22 A. All that stuff.
23 Q. All that stuff, technology, leaf,
24 tobacco processing and packaging, you had
25 supervisory responsibilities over R & D. Would

1 that include biological, chemical?
2 A. It included all of R & D, yes.
3 Q. Would you have been apprised on a
4 regular basis, between '89 and '91, what projects
5 R & D was working on?
6 A. You bet.
7 Q. Did you have to approve them?
8 A. I would say yes.
9 Q. What specific projects do you recall,
10 as you sit here today, that you approved between
11 '89 and '91?
12 A. Well, I can't recall all the projects. There
13 were a lot of projects. I -- I know that I
14 approved -- I recall approving additional work on
15 the Premier product type concept, or work along
16 those lines, the extension of the original Premier
17 work. That work continued while I was there.
18 Q. Did you have any role in the marketing
19 of Premier?
20 A. No.
21 Q. In the introduction of Premier?
22 A. No. That was pre '91.
23 Q. Was it pre '89?
24 A. I think it was --
25 Q. Like August/September of '88?

1 A. I think so. Late '88 is my recollection, but
2 I'm not certain of that date.

3 Q. In the '89 to '91 time period, do you
4 have any recollection of specific R & D products
5 related to looking at nicotine?

6 A. There were projects looking at nicotine, yes.

7 Q. Were there specific projects looking
8 at how the nicotine levels in the cigarettes could
9 be maintained throughout the manufacturing
10 process?

11 A. Hmm. I don't recall a project like that. It
12 could have been.

13 Q. How about to determine or control the
14 nicotine yield of the end product?

15 A. Again, I don't recall one. Could have been.

16 Q. Do you recall projects that were
17 related to increasing the efficiency by which
18 nicotine passed through the bloodstream?

19 A. I don't recall a project on that.

20 Q. Do you know what I mean by the
21 nicotine transfer rate?

22 A. I know -- I do not know what you mean by
23 that.

24 Q. Have you heard of free nicotine versus
25 bound nicotine?

1 A. I've heard that term.
2 Q. Where have you heard that?
3 A. It was in a meeting with some R & D people.
4 I don't recall who.
5 Q. Do you recall if there was any work
6 going on in R & D with respect to free versus
7 bound nicotine?
8 A. I remember someone in R & D talking about
9 that at a meeting, and I don't know whether any
10 actual work was done on that or not, or how much
11 work was done. I mean, that -- that goes back to
12 prior to my responsibility for R & D.
13 Q. Do you know who that individual was
14 you remember?
15 A. I'm not certain. One of the scientists.
16 Q. From '89 to '91, did you have any
17 involvement or role with respect to alleged health
18 risks related to smoking?
19 A. Well, the continued work on the Premier
20 product type concept, you know, would be -- would
21 be probably my -- would be related to that.
22 Q. Was there any group in '89 to '91 that
23 had, as its primary function, looking at the
24 health risks related to smoking?
25 A. R & D. I mean, that was one of their

1 functions, to track the science on that, sure.

2 Q. What do you mean by tracking the
3 science?

4 A. Well, I mean, keep informed of new studies
5 coming out and so forth. I mean, generally
6 maintaining awareness in that -- in that general
7 area.

8 Q. Are you aware of any studies they did
9 to either confirm or deny the validity of any such
10 studies?

11 A. I'm not aware of any specifics on that, no.
12 I don't recall any.

13 Q. In '89 to '91 who would have been the
14 primary person at Reynolds responsible for
15 tracking health risks related to smoking?

16 A. I don't know. I can't --

17 Q. Was toxicology -- I'm sorry.

18 A. -- recall. There were -- there was a
19 toxicology group.

20 Q. Was toxicology under R & D in '89?

21 A. Uh-huh.

22 Q. Were you Wallace Hayes' boss, '89 to
23 '91?

24 A. DiMarco was his boss. He's never reported to
25 me, directly.

1 Q. Who would have more knowledge
2 concerning the purpose behind the expansion
3 process, Hayes or you?

4 A. I don't know. I have no idea what Hayes knew
5 or didn't know about the expansion process.

6 Q. What's your understanding of his
7 primary function?

8 A. Toxicology.

9 Q. In '89 to '91, do you know if
10 toxicology ever ran any test studies, inquiries,
11 to determine the potential health effects of
12 cigarette smoke as opposed to tobacco?

13 A. I don't know.

14 Q. Do you know if research and
15 development did any testing in '89/'91 to
16 determine alleged health risks related to
17 secondhand smoke or environmental tobacco smoke?

18 A. I believe they ran some animal tests on
19 environmental tobacco smoke. But I don't remember
20 any details.

21 Q. What would your day-to-day functions
22 be as head of that long title? Technology, leaf,
23 tobacco processing and packaging.

24 A. Day-to-day functions. Management of those
25 areas.

1 VIDEOGRAPHER: Mr. Maistros, we have
2 five minutes left on the videotape.
3 BY MR. MAISTROS:
4 Q. What I'd like to ask you to do, if you
5 could, is just identify the box you brought with
6 you today. And just, if we can have a stipulation
7 on the record that everything related to the
8 document request was put in that box, brought by
9 you, given to your attorneys; and they've already
10 represented nothing was removed. So that's the
11 complete set of documents responsive to the
12 document request, correct?
13 A. That's it, in that cardboard box.
14 MR. MAISTROS: Could we just pick it
15 up and show it on the -- on the camera. And there
16 are no computer tapes, CD ROMs or backup of any of
17 this material? This is it?
18 THE WITNESS: That's it.
19 MR. MAISTROS: Okay. We'll have to
20 change the videotape and we'll come back on and
21 try to identify these materials, okay?
22 THE WITNESS: Okay.
23 MR. MAISTROS: If we can just stay
24 seated.
25 VIDEOGRAPHER: Going off the record at

1 11:46 a.m.

2 (RECESS TAKEN FROM 11:46 A.M. TO 11:50 A.M.)

3 VIDEOGRAPHER: This is tape 2 of the
4 videotape deposition of David Isbister. We're
5 going back on the record at 11:50 a.m.

6 BY MR. MAISTROS:

7 Q. Okay, now, the documents you've
8 brought with me (sic), do you or your counsel have
9 any objection to marking, for the time being, the
10 separate folders, just generically describing the
11 contents of the separate folders, as opposed to
12 piece by piece?

13 MR. MORROW: That would be acceptable,
14 and preferable.

15 MR. MAISTROS: What I'd ask you to do,
16 then, if they're in any sort of order, if you can
17 put them in piles generically, feel free to. I
18 just want you to, once they're -- they're marked,
19 is to just describe for the record generally what
20 the contents of the files are. Okay?

21 THE WITNESS: Okay.

22 MR. MAISTROS: We'll mark these as
23 Isbister 1 through whatever they go up to.

24 (PLAINTIFF'S EXHIBIT NUMBER 1 WAS MARKED
25 FOR IDENTIFICATION)

1 THE WITNESS: Describe each one?
2 BY MR. MAISTROS:
3 Q. Well, what's in Number 1 that I've
4 marked?
5 A. Telephone books.
6 Q. Reynolds' telephone books?
7 A. Reynolds' telephone books.
8 Q. These were produced by Reynolds while
9 you were employed at Reynolds?
10 A. Uh-huh.
11 Q. Kept in the ordinary course of
12 business while you were an employee at Reynolds?
13 A. Uh-huh. Correct.
14 MR. BELASIC: Just for the record, I'd
15 like to designate Reynolds' telephone books as
16 confidential, under the protective order.
17 MR. MAISTROS: We have to do that
18 retroactively to the last two depositions, because
19 they -- they were produced and not so designated,
20 but ...
21 BY MR. MAISTROS:
22 Q. And also you have in here --
23 A. My Rollodex.
24 Q. -- copies of Rollodex?
25 A. Uh-huh.

1 (PLAINTIFF'S EXHIBIT NUMBER 2 WAS MARKED
 2 FOR IDENTIFICATION)
 3 BY MR. MAISTROS:
 4 Q. And file number 2?
 5 A. File number 2 is my employment contract and
 6 papers related to my termination from the company
 7 without cause, at the end of 1991.
 8 (PLAINTIFF'S EXHIBIT NUMBER 3 WAS MARKED
 9 FOR IDENTIFICATION)
 10 BY MR. MAISTROS:
 11 Q. And Plaintiff's Exhibit Number 3?
 12 And again, the records in number 2
 13 were kept by you while you were employed by
 14 Reynolds?
 15 A. Uh-huh.
 16 Q. In the ordinary course of business?
 17 A. Yes.
 18 Q. And they're both originals and copies
 19 in there?
 20 A. Yes.
 21 Q. We'll go -- we'll go through them
 22 later, if we have to.
 23 A. This is Number 3. Material related to 19 --
 24 my own personal 1989 income taxes. It's in here
 25 because there were some documents provided me with

1 the company for use by my tax preparer.
 2 MR. MAISTROS: Would you like to
 3 designate any portion of those as confidential,
 4 before they're spread across the world?
 5 MR. MORROW: Well, quite frankly, we'd
 6 like to designate anything dealing with Dave's
 7 income, benefits, taxes as confidential.
 8 MR. MAISTROS: I'm not, per se,
 9 interested in the returns, but I may be interested
 10 in just the annual compensation received at
 11 various positions. You can still maintain it's
 12 confidential, but --
 13 MR. MORROW: Yes.
 14 MR. MAISTROS: Okay, I'll go through
 15 those later.
 16 (PLAINTIFF'S EXHIBIT NUMBER 4 WAS MARKED
 17 FOR IDENTIFICATION)
 18 BY MR. MAISTROS:
 19 Q. And Number 4 is what?
 20 A. This says "1991 PR1's". It has to do with my
 21 performance review for 1991 and issues associated
 22 with that.
 23 Q. Just for '91?
 24 A. Just for '91. Uh-huh.
 25 Q. Do you have it for other years?

1 A. I do not.
2 Q. Who did the '91 review?
3 A. Jim Johnston. James Johnston.
4 (PLAINTIFF'S EXHIBIT NUMBER 5 WAS MARKED
5 FOR IDENTIFICATION)
6 BY MR. MAISTROS:
7 Q. And number 5?
8 A. Number 5 is related to my -- also related to
9 my severance from the company, documents relating
10 to the severance of my employment.
11 Q. All '91 related?
12 A. Uh-huh. As far as I know, yes.
13 (PLAINTIFF'S EXHIBIT NUMBER 6 WAS MARKED
14 FOR IDENTIFICATION)
15 BY MR. MAISTROS:
16 Q. And Number 6?
17 A. Number 6 is associated with stock ownership,
18 employee benefit plans related to my employment at
19 RJR.
20 (PLAINTIFF'S EXHIBIT NUMBER 7 WAS MARKED
21 FOR IDENTIFICATION)
22 BY MR. MAISTROS:
23 Q. And Number 7?
24 A. Is also related to other employee benefits,
25 medical/dental, et al.

1 (PLAINTIFF'S EXHIBIT NUMBER 8 WAS MARKED
 2 FOR IDENTIFICATION)
 3 BY MR. MAISTROS:
 4 Q. And Number 8?
 5 A. Number 8 is related to Reynolds' Executive
 6 Compensation Program, in general.
 7 (PLAINTIFF'S EXHIBIT NUMBER 9 WAS MARKED
 8 FOR IDENTIFICATION)
 9 BY MR. MAISTROS:
 10 Q. Number 9?
 11 A. Related to Reynolds' Executive Benefits
 12 Program.
 13 (PLAINTIFF'S EXHIBIT NUMBER 10 WAS MARKED
 14 FOR IDENTIFICATION)
 15 BY MR. MAISTROS:
 16 Q. And Number 10?
 17 A. Number 10 is titled "RJRN Litigation," and it
 18 has to do with a litigation matter on the stock of
 19 RJR Nabisco.
 20 (PLAINTIFF'S EXHIBIT NUMBER 11 WAS MARKED
 21 FOR IDENTIFICATION)
 22 BY MR. MAISTROS:
 23 Q. And Number 11?
 24 A. It is about -- it is related to my company
 25 car program at Reynolds.

1 (PLAINTIFF'S EXHIBIT NUMBER 12 WAS MARKED
2 FOR IDENTIFICATION)
3 BY MR. MAISTROS:
4 Q. And Number 12?
5 A. Employee insurance programs at RJR.
6 (PLAINTIFF'S EXHIBIT NUMBER 13 WAS MARKED
7 FOR IDENTIFICATION)
8 BY MR. MAISTROS:
9 Q. Number 13?
10 A. Restricted Stock Program for executives at
11 RJR.
12 (PLAINTIFF'S EXHIBIT NUMBER 14 WAS MARKED
13 FOR IDENTIFICATION)
14 BY MR. MAISTROS:
15 Q. And 14?
16 A. Management Equity Participation Program at
17 RJR.
18 (PLAINTIFF'S EXHIBIT NUMBER 15 WAS MARKED
19 FOR IDENTIFICATION)
20 BY MR. MAISTROS:
21 Q. Number 15?
22 A. Savings Investment Plan at RJR.
23 (PLAINTIFF'S EXHIBIT NUMBER 16 WAS MARKED
24 FOR IDENTIFICATION)
25 //

1 BY MR. MAISTROS:
2 Q. And 16?
3 A. Executive insurance -- let's see, I think
4 this is automobile insurance. This say "Executive
5 Insurance"; I think that's -- covers it.
6 (PLAINTIFF'S EXHIBIT NUMBER 17 WAS MARKED
7 FOR IDENTIFICATION)
8 BY MR. MAISTROS:
9 Q. Seventeen?
10 A. Flexible Perk Program, our employee benefit
11 program.
12 (PLAINTIFF'S EXHIBIT NUMBER 18 WAS MARKED
13 FOR IDENTIFICATION)
14 BY MR. MAISTROS:
15 Q. Eighteen.
16 A. Stock options.
17 (PLAINTIFF'S EXHIBIT NUMBER 19 WAS MARKED
18 FOR IDENTIFICATION)
19 BY MR. MAISTROS:
20 Q. And 19?
21 A. Management Equity Plan.
22 Q. Your calendars?
23 A. Uh-huh. Do you want to do that as a stack or
24 do we need to identify each one?
25 Q. We'll do them separately.

1 A. Okay.
2 (PLAINTIFF'S EXHIBIT NUMBER 20 WAS MARKED
3 FOR IDENTIFICATION)
4 BY MR. MAISTROS:
5 Q. Twenty would be?
6 A. 1987.
7 (PLAINTIFF'S EXHIBIT NUMBER 21 WAS MARKED
8 FOR IDENTIFICATION)
9 BY MR. MAISTROS:
10 Q. Twenty-one?
11 A. 1987.
12 Q. Long year.
13 (PLAINTIFF'S EXHIBIT NUMBER 22 WAS MARKED
14 FOR IDENTIFICATION)
15 BY MR. MAISTROS:
16 Q. Twenty-two?
17 A. 1987.
18 (PLAINTIFF'S EXHIBIT NUMBER 23 WAS MARKED
19 FOR IDENTIFICATION)
20 BY MR. MAISTROS:
21 Q. Twenty-three?
22 A. 1990.
23 (PLAINTIFF'S EXHIBIT NUMBER 24 WAS MARKED
24 FOR IDENTIFICATION)
25 //

1 BY MR. MAISTROS:
2 Q. Twenty-four?
3 A. 1991.
4 Q. Twenty --
5 A. 1992.
6 Q. Were you employed at Reynolds in '92?
7 A. No. But the subpoena said, if I was on
8 extended compensation -- through the period I was
9 on extended compensation.
10 Q. Did you do any work at -- at Reynolds
11 on a consultant basis or otherwise?
12 A. No.
13 Q. Do you have '92, '93, '94 there?
14 A. Yes.
15 Q. Have you -- none of those calendars
16 contain any entries related to any RJR work?
17 A. They don't. They do not.
18 Q. What else do you have?
19 A. The monograph.
20 Q. It's not autographed, or there's no
21 notes in it?
22 A. There's an autograph in it.
23 Q. What's that say?
24 A. It says "August 1989, Dave, Premier can help,
25 Wally."

1 Q. Is that Wally Hayes?
2 A. That's Wally Hayes. Yes, it is.
3 Q. Do you know what he meant by "Premier
4 can help"?
5 A. I don't know what he meant exactly. You have
6 to ask him. I didn't ask him.
7 MR. MAISTROS: Other than copying the
8 inside page of this, any objection if I return
9 this to the witness?
10 MR. BELASIC: I prefer you return all
11 of it to the witness.
12 MR. MAISTROS: We'll just make a copy
13 of this.
14 THE WITNESS: You can make a copy of
15 that, if you want.
16 MR. BELASIC: Let me put a statement
17 on the record. Reynolds designates the -- the
18 Rollodexes, the phone list, and Mr. Isbister's
19 calendars as confidential, under the Arch
20 protective order.
21 Just for the record, Reynolds objects
22 to discovery of Mr. Isbister's specific
23 compensation, whether it was while he was at
24 Reynolds or whether it's post Reynolds. The
25 specific amount of money that Mr. Isbister was

1 paid isn't relevant to this litigation.
2 MR. MAISTROS: What I'd like to do
3 is -- if there's no objections, and I won't remove
4 anything or change the order, is just go through
5 the documents during a lunch break, see which ones
6 I can eliminate; which, on first blush, would
7 appear to be the majority of them. See which ones
8 I want to question him about, and we'll do that
9 after lunch. Any objection to that?
10 MR. BELASIC: No.
11 MR. MAISTROS: Any objection to doing
12 that now?
13 MR. BELASIC: It's your depo.
14 MR. MAISTROS: Okay. We'll take a
15 little break.
16 THE WITNESS: Sure.
17 VIDEOGRAPHER: We're going off the
18 record at 12:02 p.m.
19 (RECESS TAKEN FROM 12:02 P.M. TO 1:10 P.M.)
20 VIDEOGRAPHER: We're going back on the
21 record at 1:10 p.m.
22 BY MR. MAISTROS:
23 Q. Mr. Isbister, what was the
24 relationship between RJR Tobacco and RJR Nabisco
25 while you were employed, from '76 to '91?

1 A. Well, RJR Nabisco was the parent company of
2 RJR Tobacco.

3 Q. From '76 to '91?

4 A. No. I have to think about the time here a
5 little bit.

6 No, not from '76. When I joined the
7 company, the parent company was R.J. Reynolds
8 Industries. RJR Nabisco was formed after the
9 merger of Nabisco Brands, Inc., and RJR
10 Industries. And I can't fix a date for you on
11 that. I -- I just can't remember. It's obviously
12 available, but I don't remember it.

13 Q. And RJR Nabisco, did they provide any
14 portion of your compensation after the merger?

15 A. Well, I was paid by the tobacco company, is
16 my understanding. RJR Nabisco had some benefit
17 plans or whatnot that were across the various
18 companies. But I think they also were
19 administered by the tobacco company; although
20 there might have been some exceptions to that.

21 Q. Okay. As part of your compensation
22 package, you received a salary, correct?

23 A. Yes.

24 Q. And you received deferred
25 compensation?

1 A. Yes. Uh-huh.
2 Q. And you had stock plan?
3 A. Yes.
4 Q. And salary continuation plan?
5 A. Yes.
6 Q. And health insurance?
7 A. Uh-huh.
8 Q. Weren't some of those non-salary
9 benefits paid for and administered by RJR Nabisco?
10 A. They may have been. That's possible.
11 Q. Through '91?
12 A. Yeah. Uh-huh.
13 Q. And in fact, in '91, when you left,
14 you had salary continuation, did you not?
15 A. Yes.
16 Q. And that was paid by Nabisco?
17 A. I'm not sure.
18 Q. Is there some -- one of these folders
19 that could help? This isn't a quiz. I'm --
20 A. I'm not sure who the checks came from.
21 Q. Is there one of these folders that
22 would help you answer that?
23 A. Oh, man. Let's see here. There might be.
24 It will probably take me a while to find it. I
25 believe it's in these.

1 Q. Rather than waste the time on the
2 camera, maybe we could just take a break. At some
3 point in the future you can go through and -- and
4 we'll come back to that issue.

5 A. Okay.

6 Q. When you left Reynolds in '91, I
7 noticed in one of these folders there's a
8 termination letter from Reynolds that it's being
9 done pursuant to your employment agreement, which
10 gives them the right to terminate you at any time
11 without cause.

12 A. Correct.

13 Q. And then, pursuant to that agreement,
14 your salary continued for a period of time at a
15 percentage of your highest three years or
16 something? Was it is something like that, or --

17 A. It was a percentage of something. I can't
18 remember the exact calculation. And it was three
19 years.

20 Q. Although the -- the termination by
21 Reynolds occurred without cause, were you ever
22 told why you were being terminated?

23 A. I don't recall being told why.

24 Q. Did you ask why?

25 A. Huh-uh. No.

1 Q. Did you ever hear why?

2 A. You know, I -- I was -- I viewed it as a
3 joint decision. I was wanting to go, they wanted
4 me to go; that's the definition of a happy deal,
5 as far as I'm concerned.

6 Q. Was there ever any --

7 A. In other words, there was no contention over
8 it. I mean, it was --

9 Q. Was there anything going on, corporate
10 restructuring-wise, in '91 that led to this?

11 A. No.

12 Q. Was there any discussion of different
13 goals, perspectives, if you will, on funding of
14 various projects?

15 A. Nothing that wasn't the normal course of
16 business.

17 Q. Was there ever any consideration, to
18 your knowledge, of elevating you to a higher level
19 within the company?

20 A. Nothing that I know of.

21 Q. Do you know if you ever were
22 considered for Johnston's position?

23 A. I don't know.

24 Q. How well did -- did you or do you know
25 Johnston?

1 A. Well, he was my boss for two and a half
2 years.

3 Q. Did you have any communication with
4 him after you left Reynolds?

5 A. Very little. I ran into him a couple of
6 times and said, "How you do?" But nothing other
7 than that.

8 Q. Where did he live? Where did he live?

9 A. He's a neighbor of mine. He lives in my
10 neighborhood.

11 Q. How close?

12 A. Three doors away.

13 Q. Were you aware that he testified
14 before Congress in April of 1994 with respect to
15 efforts to regulate nicotine?

16 A. I think I'm aware of that.

17 Q. Did you participate in any fashion, in
18 either the oral or written statement, he provided
19 to Congress?

20 A. No.

21 Q. Did you see it before it was
22 submitted?

23 A. No.

24 Q. In 1991, when you left Reynolds, based
25 upon your experience with the manufacturing

1 process, the plants, et cetera, to your knowledge
2 was Reynolds controlling the nicotine levels in
3 its cigarettes?

4 A. Yes. They certainly were controlling
5 nicotine levels in cigarettes.

6 Q. For what purpose?

7 A. To provide a uniformed product to the people
8 who were buying it. And also, over the time that
9 I was with Reynolds, the tar and nicotine levels
10 of most of the -- if not all of the cigarettes we
11 made, became lower over time, over that time
12 period.

13 Q. You're talking about the actual amount
14 of tar and nicotine in the tobacco?

15 A. I'm talking about the FTC measurement of tar
16 and nicotine. Specifically the FTC measurement.

17 Q. Do you know if there was any reduction
18 in the actual intake, by the average smoker, of
19 nicotine?

20 A. I have no idea.

21 Q. Do you know what project XDU was?

22 A. That is a code name that I do remember. That
23 had to do with -- well, wait a minute. XDU. No,
24 I don't know what XDU is. I was thinking of a
25 different one. I don't know what XDU is.

1 Q. What one were you thinking of?
2 A. XDE.
3 Q. What was XDE?
4 A. That was a development of a Premier-like
5 project for eventual marketing in Europe. Premier
6 or Premier-like, if you want.
7 Q. Heat rather than burn tobacco?
8 A. Yeah.
9 Q. Now what was the IMPACS, I-M-P-A-C-S,
10 oversight committee?
11 A. Can't remember.
12 Q. What was the ignition propensity
13 steering committee?
14 A. It had to do with project to try to develop a
15 cigarette that would be less prone to start fires.
16 Q. Where did that end up?
17 A. I don't know. I mean, it was still active at
18 the time I left the company. I don't know where
19 it's -- where it is now.
20 Q. Do you know what the ATP project was?
21 A. ATP. I don't recall.
22 Q. Do you know what the executive
23 steering committee for LTP Research was?
24 A. LTP?
25 Q. Yes.

1 A. I do not.
2 Q. You were on committees for long-term
3 planning?
4 A. Yeah.
5 Q. Could it have been that?
6 A. It's possible.
7 Q. Do you recall attending any committee
8 meetings where budgets were discussed and
9 priorities were given to issues such as research
10 versus development versus marketing?
11 A. Sure.
12 Q. Do you recall discussions at those
13 meetings where certain individuals raised issues
14 with respect to excess cuts in research?
15 A. Don't remember any specific meetings where
16 that was done. Most of my conversations about
17 that would have been with Bob DiMarco himself.
18 Q. During your years at Reynolds, did
19 anyone suggest setting up a group or a division
20 related solely to looking at the issue of health
21 risks in smoking?
22 A. Nobody suggested that to me.
23 Q. Was there such a group or division
24 while you were there?
25 A. I don't know. Not that I'm aware of.

1 Q. Did you ever have to fire anyone while
2 you were at Reynolds?
3 A. Yeah, I involuntarily separated some people.
4 Q. Who?
5 A. And others who were separated within the
6 organization.
7 Q. Who did you involuntarily separate?
8 A. Richard Morgan, Ralph Cornwell are the two I
9 remember.
10 Q. What was Richard Morgan's title?
11 A. He was director of quality assurance at the
12 time.
13 Q. What years?
14 A. I don't know.
15 Q. Do you know what position you would
16 have held?
17 A. It's when I was vice president of
18 manufacturing.
19 Q. Why did you fire him, Morgan?
20 A. Performance-related. Same with Cornwell.
21 Q. What was his position?
22 A. He was a manager in the quality assurance
23 department.
24 Q. Did you ever have to demote anyone?
25 A. I don't recall any demotions.

1 Q. Are you familiar with the special
2 projects committee?

3 A. No.

4 Q. Did you ever have to meet with
5 attorneys while employed at Reynolds, on a regular
6 basis?

7 A. Meet with attorneys on a regular basis. No.

8 Q. Did you ever have discussions with
9 attorneys on specific research that was being done
10 underneath you or within your departments?

11 A. I don't recall any such discussions.

12 Q. Have you met Mark Holton?

13 A. Yes.

14 Q. How many occasions?

15 A. Well, three times, that I can recall.

16 Q. What were the occasions?

17 A. Well, two of them I mentioned earlier this
18 morning, and the third one was lunch today.

19 Q. How would you be kept apprised on a
20 regular basis of what research was going on in
21 your department from '89 to '91?

22 A. I had a meeting with Bob DiMarco about every
23 ten days to two weeks, depending on our travel
24 schedules and whatnot. And then he would brief me
25 on the status of individual projects and I'd have

1 a chance to ask him questions about that. And
2 probably -- oh, I don't know, once a month or so,
3 I would come out to R & D and have -- I might
4 have -- on an individual project or another; I
5 might have a meeting with some of the scientists
6 who were working on it to, you know, get a little
7 more in-depth feel of what was going on. Those
8 were the primary means. And telephone, of course,
9 in between if something came up.

10 Q. Were you provided written summaries?
11 A. Yeah. But -- yeah. Sort of a -- a summary
12 of projects, right. Uh-huh. Those were fairly
13 brief, however.

14 Q. Who did you have to keep apprised,
15 between '89 and '91, as to what was going on in
16 R & D?

17 A. Who did I have to keep apprised? Jim
18 Johnston.

19 Q. How did you keep him apprised of what
20 was going on?

21 A. Similar way. I met with him every week and a
22 half or so, and I'd cover R & D plus the other
23 areas, current issues and so forth.

24 Q. Did you provide him written documents,
25 summaries?

1 A. I'm trying to think about that. I can't
2 really remember if I did or not. I think I -- I
3 think I provided Jim a weekly highlights, maybe a
4 one-pager, something like that, but I'm not
5 positive on that.

6 Q. Would you have -- have apprised
7 Mr. Johnston of research that was going on with
8 respect to reconstituted tobacco?

9 A. Well, I might have, if it involved a major
10 change or something. It's possible.

11 Q. Was Mr. Johnston CO the entire time
12 you were at Reynolds?

13 A. No.

14 Q. When did he start, do you know, as CO?

15 A. He started in -- right about the time in '91
16 that I took -- had my last job.

17 Q. Did he ask you to stay, or agree that
18 you wanted to leave Reynolds, or not get involved?
19 What was his role?

20 A. You mean with regard to my leaving?

21 Q. Yes.

22 A. It was something we discussed together. He
23 was my boss.

24 Q. Was he one of those who earlier you
25 said wanted you to leave? Or ...

1 A. I'd describe it that the two of us talked and
2 decided my leaving would be -- would be a good
3 idea. Let's put it that way. I think that's a --
4 I think that's an accurate portrayal. I feel like
5 he would agree with that.

6 Q. Were there any specific projects or
7 goals you failed to meet before you left?

8 A. You mean to my satisfaction or anybody's?

9 Q. Johnston's.

10 A. Not that I'm aware of. I mean, I was not
11 informed of any.

12 Q. Who replaced you?

13 A. I wasn't replaced directly. My
14 responsibilities were spread out among other
15 people who were already in the organization, other
16 parts of the organization.

17 Q. I noticed in the -- one of these
18 folders it that had documents related to the
19 Reynolds health plan?

20 A. Uh-huh.

21 Q. And the Reynolds health plan paid for
22 nicotine withdrawal programs?

23 A. I think that's right. I'm not sure. If you
24 saw a reference to it in there.

25 Q. There were payments for somebody with

1 the name Isbister for Nicoderm. Who was on
2 Nicoderm in your family?

3 A. I was.

4 Q. What years?

5 A. 1991. No, excuse me -- '92. Sorry. Early
6 '92.

7 Q. Do you know of any research that RJR
8 did on nicotine withdrawal?

9 A. No.

10 Q. During '89 to '91 -- and is it -- is
11 that the time period that's fair for me to be
12 asking you about, in terms of research? Not to
13 be --

14 A. Well, I was responsible for R & D in that --
15 during that time period.

16 Q. Prior to that, you were not?

17 A. That's right.

18 Q. '89 to '91, are you aware of any
19 research Reynolds was doing on the effects of
20 nicotine on the smoking process?

21 A. They were doing some research related -- on
22 the smoking process?

23 Q. Tobacco and smoke. I don't want to
24 say tobacco versus smoking. And since I called it
25 smoking process, to include both.

1 A. They were doing some work on nicotine. I
2 don't remember the details, whether it was smoke
3 or tobacco, or what. I know they were doing work
4 on nicotine.

5 Q. Did you ever learn, during your
6 employment at Reynolds, what role nicotine played
7 in the tobacco process?

8 A. Well -- what role tobacco -- nicotine played
9 in the tobacco process. You know, I'm not an
10 expert on -- on that, on nicotine and how it
11 reacts in the body. But obviously I knew and know
12 that nicotine in cigarettes is ingested as a part
13 of the smoking process and enters the body and has
14 some effects. But beyond that, you'd do a lot
15 better talking to somebody who understands it a
16 whole lot better than I do.

17 Q. How did you come to be aware that
18 Nicoderm could help you stop smoking?

19 A. I think it was maybe through an ad in a
20 magazine or something.

21 Q. And how long did you use Nicoderm?

22 A. Six weeks.

23 Q. Were the nicotine levels in the
24 patches reduced over that six weeks?

25 A. Uh-huh.

1 Q. Did you know how it was that Nicoderm
2 began to market a product that gave people
3 nicotine in reduced levels over time?

4 A. I have no idea how they -- how that came
5 about.

6 Q. Do you have an opinion, from your work
7 at Reynolds, and specifically as head of R & D in
8 '89 to '91, as to whether or not nicotine is
9 addictive?

10 MR. BELASIC: Object to the form.
11 That's an improper opinion question to a
12 non-expert.

13 THE WITNESS: I'm not an expert on
14 nicotine, and I'm not sure whether it's addictive
15 or not.

16 BY MR. MAISTROS:

17 Q. Did you ever receive any memos or
18 receive any oral reports to the effect that
19 nicotine was the compound within the tobacco that
20 made people want to smoke or continue smoking?

21 A. I don't remember any such reports.

22 Q. Do you recall any reports to the
23 effect that nicotine had to be maintained at a
24 certain level in cigarettes in order for people to
25 continue smoking?

1 A. I don't remember any such reports.

2 Q. Do you remember any discussions along
3 the lines that there were certain levels that
4 nicotine had to be maintained in order for people
5 to continue smoking?

6 A. I don't remember any such discussions.

7 Q. Do you remember any discussions along
8 the lines that nicotine was, perhaps, the most
9 important component in tobacco, insofar as a
10 person's decision to smoke was concerned? Or
11 continue smoking.

12 A. I don't remember such a discussion.

13 Q. Do you remember any research or recall
14 any reports that focused on the issue of why
15 people chose to continue smoking?

16 A. I don't remember a report like that.

17 Q. Whether it's a report or an oral
18 statement or cocktail conversation, between '89
19 and '91, do you know if anyone was looking at the
20 issue of why people continued to smoke?

21 A. I'm not sure. There may have been someone
22 looking at that.

23 Q. I'm talking about at Reynolds.

24 A. Yeah, that's what I'm talking about too.

25 There may have been someone looking at that. I

1 don't recall a specific project on that.

2 Q. If somebody was looking at the issue
3 of why people continued to smoke at Reynolds,
4 between '89 and '91, would they have been under
5 the control of research and development?

6 A. I believe so.

7 Q. Was there any other group at Reynolds,
8 between '89 and '91, that was responsible for
9 research? Other than R & D.

10 A. Not that I know of.

11 Q. Do you know a Mr. Simmons?

12 A. Yes.

13 Q. What was his function at Reynolds?

14 A. He was in the research and development
15 department. And I believe he was an expert on
16 smoking and health kinds of issues. I'm not a
17 hundred percent positive on that, but I'm pretty
18 sure that was his function.

19 Q. Did he provide you updates of what he
20 was doing or would those go through DiMarco?

21 A. Those would go through DiMarco, yeah. Nobody
22 in R & D reported to me, you know, directly.

23 Q. Would all the information you have
24 received gone through DiMarco as opposed to around
25 DiMarco?

1 A. Oh, yeah, I would say -- sure. I mean, that
2 doesn't preclude a phone call or something to
3 people with questions or whatnot. But, right,
4 most things came through DiMarco.

5 Q. Were there any specific research
6 projects or things going on in R & D that people
7 were instructed to keep you copied on and abreast
8 of, outside of this reporting process through
9 DiMarco?

10 A. Not that I can recall.

11 Q. Do you know if Reynolds ever did any
12 research to determine, '89 to '91, if there were
13 adverse health consequences related strictly to
14 nicotine?

15 A. I know there was literature study work done
16 on that. I'm not -- I do not recall whether there
17 was any actual scientific research in-house done
18 on -- on that topic.

19 Q. By literature study work, you mean
20 Reynolds looked at the outside literature on
21 nicotine?

22 A. Yeah. Yeah. Yeah.

23 Q. Did Reynolds ever, to your knowledge,
24 purchase raw nicotine while you were employed at
25 Reynolds?

1 A. No, they didn't. But it could have been done
2 for the lab or in small laboratory quantities, and
3 I wouldn't necessarily have known about that. I
4 mean, I would know that there -- if there were any
5 large quantities in nicotine purchased, and there
6 were not.

7 Q. Where did Reynolds get the nicotine
8 that it used in Premier?

9 A. I believe it was extracted from tobacco. But
10 you should have really asked somebody who was
11 running the process to make the product how they
12 did that. I wasn't directly involved in that.

13 Q. Did you have any responsibilities or
14 roles with respect to outside firms being retained
15 by Reynolds for research?

16 A. No. That was done by DiMarco's people.

17 Q. Do you know what, if any, outside
18 research was contracted for by R & D while you
19 were in charge of R & D?

20 A. Well, I would have known then. I can't
21 recall now. There was outside research contracted
22 for, but I don't recall the specifics.

23 Q. Did Reynolds contract with outside
24 sources for biological research, '89 to '91?

25 A. Yeah, I think there was some of that done

1 with outside firms during that time period. But I
2 can't give you the specifics.
3 Q. Do you know what in-house biological
4 research capabilities Reynolds had, '89 to '91?
5 A. Well, there was an animal testing facility.
6 Q. Where?
7 A. Where?
8 Q. Yes.
9 A. Located adjacent, on the next block, to the
10 R & D center.
11 Q. Did it have a building name or --
12 A. It had -- it had one of those numbers. I
13 think it was 611-16, but I'm not positive about
14 that.
15 Q. Do you know if Reynolds, from '89 to
16 '91, ever did any cancer research on those
17 animals?
18 A. I'm not sure.
19 Q. If such cancer research was ongoing,
20 it would have been under R & D?
21 A. Yes.
22 Q. Did R & D have a budget between '89
23 and '91 with respect to exploring alleged health
24 risks related to smoking?
25 A. Well, the budget wasn't divided that way, but

1 certainly money was spent on that.

2 Q. Were you involved at all in terms of
3 lobbying, with respect to legislation related to
4 tobacco?

5 A. No.

6 Q. Never kept abreast --

7 A. No.

8 Q. -- of any legislation that might
9 affect tobacco business?

10 A. Well, I was consulted on a few things. For
11 example, when the rotating warnings came into
12 effect, you know, I was in manufacturing planning,
13 as I recollect. And so, if somebody came and
14 asked me, you know, what would be the impact of
15 these rotating warnings on the manufacturing
16 operation, for example.

17 But it was things like that; it was
18 individual issues with a question or something. I
19 mean, I was not a part of the sort of lobbying
20 organization or whatever you might call it.

21 Q. I noticed in your calendars you had
22 several meetings noted for meetings on Kennedy
23 legislation and impact. Do you know what that's
24 in reference to?

25 A. The only thing I can remember about that is

1 there was a -- a bill in Congress under
2 consideration, called the Kennedy Bill, that had a
3 lot of proposed provisions, and somebody came and
4 asked me something about what some of those
5 provisions would mean. And that's all I remember.

6 I don't think it was ever passed, is
7 my recollection. But I'm not even sure about
8 that.

9 Q. There were also entries for Cippilone
10 litigation. What was your involvement in that?

11 A. Cippilone. I don't know. I don't
12 remember -- if it says there's a Cippilone
13 meeting, there must have been. But I don't
14 remember the topic that was discussed in that
15 meeting.

16 It might have been -- well, I -- I
17 won't speculate on -- I -- I don't know.

18 Q. Did you attend annual meetings at
19 Reynolds where Johnston gave sort of a state of
20 affairs address?

21 A. Uh-huh. Yes.

22 Q. Did you participate in the drafting of
23 any of those presentations?

24 A. Probably I did, yeah.

25 Q. During the period you were employed at

1 Reynolds, I assume there was a board of directors?
 2 A. Uh-huh.
 3 Q. Were they ever instrumental in
 4 developing policy with respect to Reynolds and the
 5 marketing of its cigarettes?
 6 A. I don't know.
 7 Q. Did you ever attend any board
 8 meetings?
 9 A. Never attended a board meeting.
 10 Q. Were you ever asked to prepare
 11 documents that were presented at board meetings?
 12 A. Sure.
 13 Q. What type?
 14 A. The biggest area was capital expenditures for
 15 new equipment or replacement equipment and so
 16 forth, those that were big enough to go to the
 17 board. Buildings or whatnot.
 18 Q. You were responsible, from '89 to '91,
 19 with respect to developing RJR's budget for R & D?
 20 A. Uh-huh.
 21 Q. Or had a say in it?
 22 A. Sure did.
 23 Q. What was your role?
 24 A. Yeah, I reviewed the R & D budget.
 25 Q. Do you know what percentage was

1 research versus development? Could it be broken
2 down that way?

3 A. We didn't break it down that way at the time.
4 And I -- I can't give you a number. I mean, I --
5 I can't recall. You know, I'd have to have one of
6 budgets in front of me to even try to do that.

7 Q. In '89 to 1991, what individual at
8 Reynolds would have had the most knowledge
9 concerning nicotine and its role in the cigarette
10 tobacco process?

11 A. I would say, from an overview point of view,
12 Bob DiMarco. And from the point of view of
13 individual scientists working in that area, he
14 would be the one to ask. There were several
15 scientists in R & D who were involved with
16 nicotine work in one way or another.

17 Q. Did you do any work or attend any
18 meetings whereby the '88 Surgeon General's report
19 was discussed? That was the one that said
20 nicotine was addictive.

21 A. I don't recall any meetings on that Surgeon
22 General's report, specifically. It could well
23 have been discussed in a meeting I attended, but
24 nothing comes to mind as kind of a meeting about
25 that.

1 Q. Did you oversee or participate in the
2 presentation of any material, either prior to or
3 subsequent to the Surgeon General's report of '88,
4 that would have been used or submitted to the
5 Surgeon General?

6 A. I don't know. I could have, but I don't
7 recall it.

8 Q. Was it part of your responsibility to
9 keep on top of such things as the Surgeon
10 General's report, from '89 to '91?

11 A. Uh-huh. Keep on top of, I -- I'm not quite
12 sure what you mean by that. But I was aware of
13 the reports as they came out, and -- I don't
14 recall reading them all the way through, but I
15 read the summaries and stuff, tried to keep in
16 tune with what was in there, yeah.

17 Q. Are you aware of any research or
18 publications that were done by RJR that were
19 critical of the '88 report?

20 A. I don't recall any.

21 Q. Do you know what the Council for
22 Tobacco Research is?

23 A. Uh-huh.

24 Q. What is it?

25 A. It was a group -- it was an industry group

1 that commissioned and reviewed tobacco research.

2 Q. Did you have a portion of your R & D
3 budget that was allocated to that group?

4 A. I don't remember.

5 Q. Who at Reynolds, while you were there,
6 would have knowledge concerning how much money
7 Reynolds paid CTR?

8 A. I don't know.

9 Q. Didn't come out of your budget, '89 to
10 '91?

11 A. I don't recall that it did.

12 Q. Did you attend any CTR meetings?

13 A. No.

14 Q. Do you know of anyone that was a
15 member of CTR that was employed by Reynolds?

16 A. I believe Bob DiMarco was a member, for some
17 period of time. But I'm not positive about that.
18 You'd have to ask him.

19 Q. Did you ever review any minutes of
20 CTR?

21 A. No. Not that I remember.

22 Q. Did you ever -- in the '89 to '91 time
23 frame, do you ever recall any written goals,
24 programs that were developed by Reynolds, for the
25 specific purpose of analyzing health issues

1 related to smoking?

2 A. I don't recall any. That doesn't mean there
3 weren't some, but I -- I don't remember.

4 Q. Did you ever attend any meetings or
5 participate in any conferences where the issues --
6 health issues were discussed in terms of how it
7 might affect the overall sales of the company?

8 A. I don't remember discussions about that.

9 Q. You ever recall any discussions or
10 meetings whereby it was suggested that something
11 had to be done with the alleged health risks
12 related to smoking to avoid adverse consequences
13 to the sale -- sales of RJR?

14 A. I don't remember such a discussion.

15 Q. During your tenure at RJR, were the
16 health -- alleged health risks related to smoking
17 ever a concern of yours?

18 A. Yes.

19 Q. In what way?

20 A. I felt like that we should be doing something
21 to try to address those issues. And we did do
22 some -- quite a lot of stuff to try to address
23 them.

24 Q. Tell me what you did.

25 A. Right here. It's in this book.

1 Q. Premier?

2 A. You bet. In that monograph, the science
3 behind it.

4 Q. Is there anything else?

5 A. I would say research -- research programs
6 related to this, in one way or another. Under the
7 general topic heading, or genre, of trying to
8 modify the product or provide a product that would
9 address some of those issues out there. This is a
10 significant effort on the part of the company,
11 which I supported.

12 Q. What role did you have in the support
13 of the Premier project?

14 A. Not much in Premier, because it was all prior
15 to when I became responsible for R & D. After
16 that, my role was to support the ongoing programs
17 and expenditures required to continue this work
18 right here. Which I did.

19 Q. Other than Premier, did you -- well,
20 that's not fair.

21 You supported Premier because you
22 thought that it would provide a product that had
23 less health risks?

24 A. It might.

25 Q. Were there any other projects that you

1 supported or advocated that were not carried out
2 by the company, along those same lines?

3 A. I don't remember any other ones that were not
4 carried out. No.

5 Q. What other programs do you
6 specifically recall that had as their goal to
7 reduce the health risks related to smoking?

8 A. Well, they were basically various ways and
9 means of lowering the tar content or composition.
10 In other words, the fundamental premise was that
11 the tar and the chemicals in the tar would be
12 desirable to be reduced. That would be desirable
13 to reduce those. And Premier was one way of doing
14 that, and there were -- there were other projects
15 aimed at other ways of doing that. Same basic
16 philosophy and premise, though.

17 Q. Do you know if the nicotine yields of
18 Premier cigarettes were any less than any other
19 cigarette manufactured by Reynolds?

20 A. I don't remember the nicotine yields of
21 Premier.

22 Q. Was there any portion of the Premier
23 project that had as its goal the reduction of the
24 nicotine yields?

25 A. I don't know.

1 Q. The reason I asked that, you mentioned
2 that lowering of the tar was a goal of Premier,
3 correct?
4 A. Uh-huh.
5 Q. Do you know if a corresponding goal
6 was the lowering of nicotine?
7 A. I don't know.
8 Q. Did Premier come out of your budget
9 between '89 and '91 in any fashion?
10 A. Yes. R & D budget.
11 It wasn't called Premier anymore.
12 Q. Alpha?
13 A. Whatever. Alpha, yeah, some code name.
14 Q. What's VRP?
15 A. I don't know what VRP is.
16 Q. Do you know what the REST, R-E-S-T,
17 program was?
18 A. No, I don't. I saw the initials in my book
19 and I don't know today what it was.
20 Q. Do you know what the Ames program was?
21 A. Ames? A-M-E-S?
22 Q. Yes.
23 A. I think that refers to a test in R & D, a
24 biological test that has to do with mutagenicity
25 of bacteria. I believe that's what Ames -- the

1 reference to Ames is. It's the scientist who
2 developed it, I think.
3 Q. Do you know what the RAN, R-A-N,
4 project was?
5 A. I don't recall a RAN project.
6 Q. Did you ever hear of reduced Ames
7 numbers?
8 A. Well, that would mean lower numbers on the
9 Ames test, I presume.
10 Q. You never heard of that?
11 A. That doesn't ring a bell, no.
12 Q. Did you have any role, between '89 and
13 '91, in reviewing or editing literature that was
14 going to be published by Reynolds in the general
15 public?
16 A. No. DiMarco handled that.
17 Q. You didn't have to sign-off on
18 publications?
19 A. Not that I recall. Huh-uh.
20 Q. Did you have anything to do with any
21 of the chapters in that Premier monograph?
22 A. Huh-uh.
23 Q. What is that -- what's your
24 understanding of the purpose of that monograph?
25 A. To inform other scientists and other

1 interested people about the testing and research
2 done with regard to this new cigarette product
3 that's talked about there.

4 Q. Who had primary responsibility for
5 editing that document?

6 A. I don't know. I believe Dr. Hayes had a lot
7 to do with the document, but whether he had the
8 final editing responsibility, I don't know.

9 Q. How long was Premier marketed?

10 A. Don't remember.

11 Q. Do you know why -- or did you hear why
12 it did not succeed?

13 A. Smokers didn't like it.

14 Q. Do you know why?

15 A. It smelled bad, hard to light, and didn't
16 taste right.

17 Other than that, it was a great
18 product.

19 Q. The other cigarettes you mentioned
20 that were similar or on the same concept of
21 Premier, did any of them ever get to the marketing
22 stage?

23 A. There is one currently being test marketed
24 called Eclipse, which I believe is a descendant of
25 Premier.

1 Q. Where is that being test marketed?

2 A. Where? I don't know. You have to ask the
3 company.

4 Q. How did you hear about that?

5 A. From one of the current employees. I forgot
6 who. They showed -- showed me some of the
7 product.

8 I do believe it's for sale here in
9 Winston-Salem in the -- in the -- one of the
10 Reynolds' souvenir stores. And I have seen -- one
11 of my friends socially smokes them from time to
12 time. That's where he got his.

13 Q. Did you keep abreast of the -- what
14 I'll call the attorney general/class action
15 settlement that was announced in June?

16 A. I just read a few stories in the paper about
17 it.

18 Q. You weren't consulted in any fashion
19 with respect to that settlement?

20 A. Absolutely not.

21 Q. Do you have an opinion about that
22 settlement?

23 A. About --

24 MR. BELASIC: Object to the form.

25 //

1 BY MR. MAISTROS:
2 Q. Do you have an opinion --
3 MR. BELASIC: Obviously settlement
4 evidence is itself irrelevant. This ex-employee's
5 opinion on whether a proposed settlement is good
6 or bad is even more irrelevant.
7 THE WITNESS: I don't have any opinion
8 about the settlement.
9 BY MR. MAISTROS:
10 Q. Was there a line item in your R & D
11 budget between '89 and '91 for providing
12 litigation support?
13 A. I believe there was such a line item.
14 Q. Do you know what the dollar figure
15 was?
16 A. I have no idea.
17 Q. Was there a person in charge of that?
18 A. DiMarco, as far as I was concerned.
19 MR. MAISTROS: Do you mind if we take
20 a little break?
21 MR. MORROW: Good idea.
22 THE WITNESS: Suits me.
23 VIDEOGRAPHER: We're going off the
24 record at 1:58 p.m.
25 (RECESS TAKEN FROM 1:58 P.M. TO 2:22 P.M.)

1 VIDEOGRAPHER: We're going back on the
2 record at 2:22 p.m.

3 BY MR. MAISTROS:

4 Q. Mr. Isbister, during the period of
5 time you were employed at Reynolds, were you aware
6 of any projects, research or otherwise, that were
7 initiated and aborted before completion?

8 A. Oh, I'm sure there were some that were
9 aborted.

10 Q. Do you know any, specifically?

11 A. Oh, I can recall one I was involved in. We
12 were trying to -- we had -- we had some cigarettes
13 that were sent overseas, and the -- the paper
14 covering got spotted, turned yellow or brown, en
15 route. And so we started a project to determine
16 the cause of that and fix it. We worked on it for
17 about a year and a half and gave up. We never
18 found the cause and we never fixed it, either one.

19 It went away, on its own, and never
20 reappeared. And I -- to this day. So I would say
21 that was aborted; we never did find out what that
22 was all about.

23 So aborted projects in that sense,
24 that's one I remember.

25 Q. Where did Reynolds acquire its

1 cigarettes that it used in internal testing?

2 A. Well, ours we produced. The competitors'
3 cigarettes we purchased on the open market, if we
4 were going to do tests on them. And that's about
5 all I know about that.

6 Q. Do you know what the Kentucky
7 Reference cigarette is?

8 A. That was a -- a standard cigarette for
9 testing. But I don't know what the parameters
10 were. I mean, I don't know the details. But I
11 know it was a cigarette designed so that you could
12 do tests on it and you were always dealing with
13 the same -- apples with apples, in other words. A
14 reference cigarette, if you will.

15 Q. During the years you were at Reynolds,
16 what was your best selling cigarette?

17 A. Winston.

18 Q. Full flavor?

19 A. I'm not certain about that. You mean brand
20 style. That would be -- yeah, I believe it was
21 probably Winston King, but I'm not certain. It
22 could have been Winston Lights later on. I don't
23 recall.

24 Q. Do you recall any tests or research
25 that was done to determine why Marlboros were so

1 successful?

2 A. There was a lot of testing trying to figure
3 that out. A lot of taste testing done. You know.
4 What I can recall about that is that generally the
5 Marlboro product was rated as milder and smoother
6 than our Winston products.

7 Q. Who makes Marlboro?

8 A. Philip Morris.

9 Q. Do you recall any tests that were done
10 to determine the nicotine content of Marlboro?

11 A. Well, yeah. I mean, we -- we did -- I
12 believe some -- some FTC kind of testing on
13 Marlboro. My recollection is, though, that there
14 were numbers put out by the FTC itself, you know,
15 that had their -- their testing on these
16 competitor brands too, and of course we had
17 access -- access to those as well.

18 Q. Do you know if there was any testing
19 done at Reynolds to determine the nicotine
20 transfer rate of Marlboro versus the Winston
21 cigarettes?

22 A. I'm not aware of any. There may have been.

23 Q. Was there ever any research or
24 projects undertaken to determine if Philip Morris
25 treated the Marlboro tobacco in any fashion, to

1 increase the nicotine yields, once it was taken
2 into the body?

3 A. Again, I wouldn't -- I'm not aware of any.
4 There might have been such.

5 Q. Did you ever get together with Philip
6 Morris or American Brands or BW and talk about
7 comparing notes on how cigarettes are
8 manufactured?

9 A. No.

10 Q. Did you ever hear of --

11 A. There -- there was a -- there was, and as far
12 as I know, is a Tobacco Chemist Research
13 Conference periodically, wherein the scientists
14 from the companies present scientific papers about
15 their research; but those are not product specific
16 related. They're -- they're like publishing a
17 research paper in a journal or something; they're
18 on a specific topic of interest.

19 Q. Have you ever heard of the gentleman's
20 agreement?

21 A. No.

22 Q. Did you ever hear of any agreement,
23 written or otherwise, whereby one tobacco company
24 would advise other tobacco companies if they
25 devised a, quote, safer, unquote, cigarette?

1 A. I never heard of any such agreement.
2 Q. Did you ever hear stories that, during
3 the '70s, Reynolds' biological research facilities
4 were shut down by Reynolds?
5 A. I don't recall hearing that.
6 Q. Have you -- I probably should have
7 asked you this. Did you have any connection to
8 Winston-Salem before you started at Reynolds?
9 A. Yes. I was here -- came to Winston-Salem in
10 1971 with Accuray, the company I was working for
11 out of Ohio, and I sold equipment to Reynolds and
12 the other tobacco companies for five years, prior
13 to joining Reynolds. That's how I got to know the
14 Reynolds people.
15 Q. Manufacturing equipment?
16 A. Uh-huh.
17 Q. What type of equipment did you sell?
18 A. Beta gauges. It's a device that fits on the
19 cigarette machine and measures how much tobacco
20 goes in each cigarette.
21 Q. '89 to '91, was R & D responsible for
22 testing additives that were used in tobacco?
23 A. Uh-huh. Yeah.
24 Q. What type of testing procedures did
25 Reynolds have for additives in '89 to '91?

1 A. Well, I can't give you the details. It was
2 under the toxicology area in R & D, and there was
3 a regular protocol for testing those materials.
4 And I believe there were also outside consultants
5 involved in making those decisions as to what
6 should be allowed in the product.

7 You need to talk to the research
8 people about that, if you want details. That's as
9 much as I can tell you.

10 Q. Have you heard of the word
11 "nitrosamines"?

12 A. Uh-huh.

13 Q. What's your understanding of that?

14 A. It's a chemical compound and it's found in
15 smoke. It contains nitrogen; that's about all I
16 know.

17 Q. Do you know where it comes from?

18 A. I don't.

19 Q. Do you know what effect, if any, it
20 has on humans?

21 A. I do not.

22 Q. Do you know if it's carcinogenic?

23 A. I don't know.

24 Q. Do you know what a polycyclic
25 hydrocarbon is?

1 A. Yes, I do.
2 Q. What is that?
3 A. It's a -- it's a compound that's based on
4 carbon rings or rings of carbon.
5 Q. Is it in tobacco?
6 A. I believe there are some in tobacco. But I'm
7 not a tobacco chemist.
8 Q. Are there -- do you know if there's
9 any adverse health effects related to those?
10 A. I don't know the specifics on that.
11 Q. Do you know of any testing that was
12 done at Reynolds on polycyclic hydrocarbons?
13 A. Again, I don't know the specifics. There may
14 have been testing of that type.
15 Q. Do you know if -- what levulinic -- I
16 might be mispronouncing that -- Levulinic acid is?
17 A. It's a chemical compound. That's about all I
18 know about it.
19 Q. Do you know what role it plays in the
20 tobacco manufacturing process?
21 A. No, I do not.
22 Q. Do you know what a phenol is?
23 A. It's -- again, it's a chemical compound.
24 Q. Did you attend meetings with marketing
25 on a regular basis from '89 to '91?

1 A. I think we had a regular meeting with
2 marketing, yes.

3 Q. Was marketing kept apprised of results
4 of research that was going on in research and
5 development?

6 A. Well, I think there was probably some of
7 that. I think marketing generally was more
8 interested in the status of new product
9 developments or product improvements that were
10 getting close to going to market. I mean, that --
11 that was the major -- their major interest, I
12 believe.

13 Q. You mentioned earlier there were
14 efforts to reduce the tar levels of cigarettes.

15 A. Uh-huh.

16 Q. Was marketing kept apprised of those
17 efforts?

18 A. I would think so. Yeah.

19 Q. Did Reynolds market those lower tar
20 products as safer cigarettes?

21 A. I don't believe they did.

22 Q. Do you know why?

23 A. There would be no substantive way to support
24 such a claim.

25 Q. You don't believe that lower tar

1 cigarettes are safer cigarettes?

2 A. I don't believe it can be proven, by any
3 means we know today.

4 Or when I left, I should say. I don't
5 know what they're doing today.

6 Q. Was Premier marketed as a safer
7 cigarette?

8 A. No.

9 Q. Do you believe Premier was a safer
10 cigarette?

11 MR. BELASIC: Object to the form of
12 that. Again, an improper opinion question to a
13 witness who is not an expert.

14 BY MR. MAISTROS:

15 Q. Well, Premier was marketed between '89
16 and '91, wasn't it?

17 A. No, I think it was off the market at that
18 time.

19 Q. Off the market by '89?

20 A. Oh, yeah. It was only in the test market a
21 matter of a month or two. It was pulled.

22 Q. Do you know if Reynolds did any polls
23 or surveys to determine if the public believed
24 that low tar cigarettes were a safer cigarette?

25 A. I'm not aware of any such polls. I don't

1 remember any such polls.

2 MR. MAISTROS: Let me show you -- I'd
3 like to go through some of these and just ask you,
4 if you mind, just that -- if we would keep them,
5 make copies and provide you back you a copy of
6 everything we're copying, as opposed to going
7 through and marking an individual document. And
8 I'd like to eliminate 90 percent of these
9 questions about these by doing that, just with the
10 understanding that the court reporter, or somebody
11 agreed upon, will keep these originals, provide
12 everyone a copy, and you can make whatever
13 objections you want to confidentiality at the time
14 the deposition's reproduced.

15 MR. BELASIC: It's fine with me, if
16 the witness wants to give away his originals. I'm
17 not going to object to the admissibility of these
18 things because they're copies instead of
19 originals. I may object on other grounds, but ...

20 MR. MAISTROS: Okay. If you don't
21 object to copies as opposed to originals, I'll
22 return most of the originals. There's some that
23 we get to, I'd like to ask that the originals be
24 kept out.

25 THE WITNESS: Well, there are certain

1 originals that I want back.

2 MR. MAISTROS: You'll get those back.
3 But if we're not going to have an objection on the
4 copies, then this will be easier.

5 For example, on Number 1, it's
6 telephone directories and Rollodex. I'm not
7 interested in having originals of these, and they
8 can be returned to the witness.

9 THE WITNESS: I'm not interested in
10 originals either, as long as I have copies of
11 those.

12 MR. MORROW: Well, we just want some
13 agreement that any originals we want back, we can
14 have the originals back. And I realize there may
15 be some reason you would need an original. We'll
16 cross that bridge when and if we --

17 MR. MAISTROS: Let's go through the
18 process and see if we have a dispute.

19 MR. MORROW: Okay.

20 MR. MAISTROS: '89, Exhibit 3, taxes.
21 I'm not interested in any originals.

22 THE WITNESS: Okay.

23 MR. MAISTROS: Number 2, which we'll
24 go back to, there are some things in here I would
25 like originals of. It's the -- the

1 termination/employment contract.

2 Number 4 there are some items I would
3 like the originals of; although, it's hard to
4 tell, they might be copies as they are, but
5 originals as they appear in the file.

6 THE WITNESS: Uh-huh. Well, I do want
7 my original employment contract back, eventually.
8 I mean, it's not time critical. I mean --

9 MR. MAISTROS: Yeah. I'm not going to
10 keep it. You understand, the court reporter would
11 have that -- would have custody of the original
12 employment contract, and if we have an
13 understanding with -- with counsel for Reynolds
14 that they won't object on authenticity, I'll
15 substitute the copy of the employment contract.

16 MR. BELASIC: I'm not going to object
17 on authenticity as to his employment contract.
18 So, I mean, I don't -- I don't think there's any
19 reason for you to have the original, especially if
20 the witness wants it back.

21 I'm not going to object, on behalf of
22 Reynolds, to the authenticity to Mr. Isbister's
23 employment contract. I don't think there's any
24 reason for plaintiff's counsel to need the
25 original, given -- given that.

1 MR. MAISTROS: Then I won't ask for
2 the original.
3 Number 5, I don't want any originals
4 of your severance documents.
5 THE WITNESS: Okay.
6 MR. MAISTROS: Just copies.
7 THE WITNESS: Okay.
8 MR. MAISTROS: I'm going through this
9 process so the court reporter can review it later
10 when she figures out what she should copy and what
11 she should keep.
12 THE WITNESS: Got you.
13 MR. MAISTROS: Number 6 is "Stock
14 Ownership"; I'm not interested in the originals of
15 those.
16 Number 7, "Employee Benefits"; I'm not
17 interested in originals of those.
18 "Executive Compensation," Number 8; I
19 do not need originals.
20 As long as we have the same
21 understanding, right? You're not going to object
22 to copies, Mark?
23 MR. BELASIC: No. As far as I know,
24 I'm not -- I don't claim that anything there is a
25 counterfeit. So ...

1 MR. MAISTROS: Number 9, "Executive
2 Program"; copies are fine.
3 Number 10, "RJRN Litigation"; copies
4 are fine.
5 Number 11 is the "Company Car"; copies
6 are fine.
7 Number 12, "Employee Benefits"; copies
8 are fine.
9 Thirteen is "Restricted Stock"; copies
10 are fine.
11 Fourteen is "Management Equity
12 Participation"; copies are fine.
13 Fifteen, "SIP Plan". Stock incentive?
14 THE WITNESS: Savings Investment Plan.
15 MR. MAISTROS: Savings Investment;
16 copies are fine.
17 Sixteen, "Executive Insurance"; copies
18 are fine.
19 Seventeen, "Flex Perk Program"; copies
20 are fine.
21 Eighteen, "Stock Options"; copies are
22 fine.
23 Nineteen. How would I characterize
24 that?
25 THE WITNESS: Stock plan.

1 MR. MAISTROS: Stock plan; copies are
2 fine.
3 In 2 and 4, I will go through and --
4 well, I need to go through the calendars.
5 Skipping to 20, calendar '87; copy is
6 fine.
7 1987, 21; copy is fine.
8 1987, 22 ...
9 The only issue is, when you make these
10 copies, if it's illegible, let us know. I might
11 want to see the original again. Because it's in
12 pencil and I don't know how it's going to turn
13 out.
14 And I have some questions on your
15 '91 -- '90 and '91 calendars, which are 23 and 24
16 respectively.
17 I have no questions on any of those.
18 THE WITNESS: All right.
19 MR. MAISTROS: What are those?
20 THE WITNESS: These are the ones --
21 those are '92 through '4 and --
22 MR. MAISTROS: I'd just like a copy of
23 the inside of the monograph of August '89, "Dave,
24 Premier can help, Wally," and the title page, so
25 we know where it came out of.

1 MS. KNISELY: That should be probably
2 Exhibit 25?

3 MR. MAISTROS: I'm not going to mark
4 it as an exhibit. I just want to make copies of
5 it.

6 BY MR. MAISTROS:

7 Q. A couple of questions -- or we can go
8 through the documents in there.

9 I noticed your compensation is laid
10 out there in minute detail for all the years you
11 were at Reynolds. Would you object to running me
12 through, just generally, what you were making,
13 particularly in the years '89 to the time you
14 left, annual compensation?

15 MR. BELASIC: I'd object; that's
16 irrelevant. Just for the record.

17 THE WITNESS: Well --

18 MR. MORROW: Do you want to talk to me
19 about that or --

20 THE WITNESS: Yeah. Do I have to do
21 it?

22 MR. MAISTROS: I mean, I have no
23 desire in going through all the details laid out
24 there. I'm just looking for ballpark figures,
25 '89, '90, '91, and what your continuation payments

1 were.

2 THE WITNESS: I'm not even sure I can
3 give you ballpark figures for those three years,
4 '89, '90, '91.

5 MR. MORROW: Why wouldn't the
6 documents speak for themselves?

7 MR. MAISTROS: They would, except --
8 it's just -- procedurally, what's going to happen
9 here, is I'm never probably going to see this
10 gentleman again. The tape is going to be admitted
11 in evidence, arguably, and the only way to get the
12 documents in and the underlying information would
13 be some sort of stipulation with opposing counsel,
14 which -- unless they're willing to do now, that
15 those are admissible, the dollar figures in those
16 documents, I'll use the documents.

17 MR. BELASIC: Well, no, because it's
18 irrelevant, so it wouldn't be admissible.

19 MR. MORROW: It'd be admissible, one
20 way or the other. It would be inadmissible, one
21 way or the other, wouldn't it, Jack?

22 MR. MAISTROS: Well, I don't know what
23 the Court would do. I mean --

24 MR. MORROW: The documents would be
25 more accurate than his testimony, is what he's

1 saying.

2 MR. MAISTROS: They are. And I'll
3 move on to that and say, fine, we can use the
4 documents. But, at trial, I might get an
5 objection saying: You could have asked the
6 witness what he was making in those years; I
7 object to the admissibility of the documents. I'm
8 just trying to shortcut it.

9 MR. BELASIC: Well, I'll stipulate
10 that Reynolds won't make that objection. Our
11 objection isn't based on any inadmissibility of
12 documents versus testimony, it's based on
13 relevancy.

14 MR. MAISTROS: Okay. Preserving your
15 relevancy objection, would you have a problem, if
16 we ever came to that, of introducing a document to
17 summarize what this gentleman made in the years in
18 issue, from the underlying documents? I mean, you
19 got to admit, it goes to the weight of his
20 testimony and --

21 MR. BELASIC: Well, see, no, that's
22 what I don't admit. That's why we're preserving
23 the relevancy admission. But we won't fight you
24 on whether or not it's in document form or in oral
25 testimony form.

1 MR. MAISTROS: Okay. I think -- I
2 think we're already on board that those copies or
3 otherwise would be accurate versions of business
4 records, otherwise kept in the ordinary course of
5 business, of this gentleman, anyway. You're not
6 going to have any admissibility problems along
7 those lines?

8 MR. BELASIC: I think that his
9 financial records are. I don't know what's in all
10 24 folders. We can work out a business record
11 exception agreement later on. But I'm not going
12 to agree on the record that every single document
13 in those folders are records kept in the ordinary
14 course of business or -- or meet the business
15 records exception.

16 MR. MAISTROS: They were, as
17 represented by the witness. I mean, generally,
18 what the file said was generally what was in
19 there. I'll go through the ones that I'm
20 primarily concerned with, anyway.

21 BY MR. MAISTROS:

22 Q. In -- I don't know how to do this,
23 since I don't have a copy, but I'll take you
24 through your 1990 calendar. I just have a couple
25 of questions on some of your entries, okay?

1 A. Okay.
2 Q. Maybe if -- if I told you what I
3 wanted to ask you, I'll hand it maybe to your
4 counsel and he can hand it to you.
5 On January 11th for '90 you have a
6 meeting "Project LN with WMH" and "L. Davis". Do
7 you know what that might be, Project LN?
8 MR. MORROW: Just a second.
9 (DOCUMENT HANDED TO WITNESS FOR REVIEW)
10 THE WITNESS: I don't recall what
11 Project LN was.
12 BY MR. MAISTROS:
13 Q. Is that Wallace Hayes you were meeting
14 with?
15 A. I don't believe so. It says "GRD"; I believe
16 that would be G.R. DiMarco, Dr. DiMarco. It says
17 "WMH"; my recollection is that Dr. Hayes' middle
18 initial is A, not M. I'm not positive about that,
19 but I believe WMH to be William M. Hildebolt and
20 L. Davis to be Layton Davis.
21 Q. And who is Hildebolt?
22 A. He was vice president of R & D under Bob
23 DiMarco, responsible for part of the operation.
24 Q. And who was Davis?
25 A. Layton Davis was an R & D employee.

1 Q. And you don't know what --

2 A. I don't know what LN is. I can't recall.

3 Q. On the 28th of January 1990 you have
4 an entry "George Newton, Cippilone Litigation
5 Outlook" at 8:30 a.m. Do you recall what that
6 might be?

7 A. Well, my best recollection is that Mr. Newton
8 is an attorney and he was going to provide me
9 something -- some information about the Cippilone
10 litigation, how it was coming or the -- you know,
11 what was going on there. I guess that's what
12 "outlook" means.

13 I believe Mr. Newton is an attorney.
14 I can't remember with which firm.

15 Q. Did he represent Reynolds?

16 A. I'm not certain. I believe so.

17 Q. On the 24th of September you have a
18 meeting -- I'm sorry, on the 26th of September you
19 have a meeting noted at 1:45 with T.C. DeLuca and
20 AWH. I would just -- I'll represent to you that
21 that's --

22 A. A. Wallace Hayes, I believe is AWH. I don't
23 know -- I don't recall Mr. DeLuca.

24 Q. And it's -- it's entitled "Nicotine
25 Strategy".

1 A. Uh-huh.
2 Q. Do you know what that meeting might
3 have been about?
4 A. Well, I think it was related to a -- the
5 research program on nicotine. But I don't
6 remember the details of it.
7 Q. Who was in charge of the research
8 program on nicotine?
9 A. From my point of view, Dr. DiMarco. I know
10 that Dr. Hayes was involved and others were
11 involved, but ...
12 Q. Now, this said "10th floor CR". What
13 was that?
14 A. That would be the conference room on the 10th
15 floor of the Reynolds building.
16 Q. On October 29th you have a meeting
17 with M. Holton and C. Matthews, Larry Coble's
18 office. Do you know what that might have been
19 about?
20 A. Yeah. That's -- that was a -- Larry Coble
21 was the superintendent of schools. I was involved
22 in a civic project relating to the school system.
23 And so that -- that was non-Reynolds business
24 there.
25 Q. Is this, by the way, in these

1 calendars, your handwriting?

2 A. That's my secretary's, not mine.

3 Q. On November 12th you have an entry at
4 8:00 a.m., "G-7 & G-7-10 Process Automation at
5 603". Do you know what that was about?

6 A. That was, I believe, related to -- let me
7 read this thing here a minute.

8 Yeah. That was related to a capital
9 improvement project to upgrade the control
10 systems, I believe, on the G-7 processes at plant
11 603.

12 Q. G-7 was?

13 A. Reconstituted sheet.

14 Q. Was ammonia used in G-7?

15 A. Uh-huh. Some G-7, yeah.

16 Q. And it's your understanding it was for
17 taste?

18 A. That's what I understand.

19 Q. On the 29th you have an entry at
20 3:00 p.m. "ETS Inhalation Study & Lab Visit
21 630-2," with a bunch of people. Do you know what
22 that was about?

23 A. I think that was an animal study related to
24 environmental tobacco smoke.

25 Q. Do you know what the --

1 A. Could I see that?

2 Q. Sure.

3 (DOCUMENT HANDED TO WITNESS FOR REVIEW)

4 A. Yeah, I believe that's what that was related
5 to.

6 Q. Did Reynolds do research, while you
7 were there, to determine health risks related to
8 ETS?

9 A. I'm not certain. There was animal testing
10 done on ETS, but I can't say definitively it was
11 aimed at health risks.

12 Q. Were you ever aware, during your
13 employment at Reynolds, of any conclusions that
14 any Reynolds researchers reached with respect to
15 health risks related to ETS?

16 A. I can only recall one meeting that I attended
17 wherein the epidemiological evidence of some
18 studies was reviewed. And my recollection is the
19 scientists involved in doing the review of the
20 studies said that the association on environmental
21 tobacco smoke was much weaker, a much lower
22 number, than on primary smoking. That's what I
23 recall out of the meeting.

24 Q. Association with what?

25 A. With -- you know, diseases, so-called

1 smoking-related diseases.

2 Q. Any research done by Reynolds between
3 '89 and '91 on ETS would have been done under
4 research and development, which you headed?

5 A. Yes. Yes. Uh-huh.

6 Q. You have an entry on 8:00 p.m. "The
7 Meeting", the "Reynolds (sic) House". What was
8 that?

9 A. Can I see that?

10 (DOCUMENT HANDED TO WITNESS FOR REVIEW)

11 "The Meeting". That was a play put on
12 by the black repertoire theater in the Reynolda
13 House living room.

14 Q. What was the play about?

15 A. It was -- the meeting was between Martin
16 Luther King and Spike Lee; and it was a hell of a
17 play. I mean, it was a corker. I really enjoyed
18 it.

19 Not Spike Lee and Martin Luther King,
20 Martin Luther King and -- Jeeze, it's slipping my
21 mind. The real -- Malcolm X. It was a
22 conversation between Martin Luther King and
23 Malcolm X, who had slightly different ideas on how
24 the civil rights program should be run.

25 Q. Slightly.

1 On December 13th you have an entry at
2 noon. Well, why don't you read it and we'll save
3 some time me mispronouncing initials or names.
4 A. Okay. Let's see. "P15 review" --
5 Q. Could you read the -- out loud what
6 the entry is.
7 A. Oh, at noon? At noon. You said noon?
8 Q. Right.
9 A. (Reading)
10 Nicotine research
11 conference lunch. AWH, TCG,
12 somebody Lunt, Jeffrey Gray,
13 Susan Wonnacott.
14 Q. Who are those people?
15 A. Well, AWH was Wallace Hayes; TCG was Tom
16 Griscom, I'm sure. Lunt, Gray and Wonnacott I do
17 not remember.
18 Q. Were they RJR employees?
19 A. Not that I recall. They must have been
20 somebody else.
21 Q. Were they RJR attorneys?
22 A. I don't believe so.
23 Q. Were they Bowman Gray employees?
24 A. I don't know.
25 Q. Wake Forest?

1 A. I have no idea who they were.
2 Q. Never heard of Susan Wonnacott?
3 A. Not that I'm aware of, no. Not that I can
4 recall.
5 Q. Where's the 20th floor of --
6 A. That would be the Reynolds Building.
7 Q. -- DR; is that it?
8 A. Dining room.
9 Q. Oh.
10 A. It was a lunch meeting.
11 Q. You had various entries of being in
12 Japan. Was that business or vacation?
13 A. Business.
14 Q. What did you have in Japan that was
15 business related?
16 A. Well, JTI, Japan Tobacco, was a -- a licensee
17 of the G13 expansion tobacco -- expansion process.
18 And they also distributed cigarettes for Reynolds
19 International in Japan. We had a longstanding
20 business relationship with them.
21 Q. Who was in charge of producing the
22 marketing brochure, if you will, or the process
23 information on G13 when it was distributed to, for
24 example, Japan?
25 A. There was a separate subsidiary called ARJAY,

1 A-R-J-A-Y, in the licensing. And that was
2 administered for a time by a fellow named Haywood
3 Smith. And beyond that, I get a little hazy as to
4 exactly the years he did that. He eventually
5 retired. He -- he was responsible for most of the
6 marketing to licensees of the process.
7 Q. Did you say R-J-R-Y?
8 A. No. The name of the subsidiary was
9 A-R-J-A-Y. A-R-J-A-Y, pronounced ARJAY.
10 Q. What does that stand for?
11 A. I have no idea. I think it was -- well, I
12 don't know. There's no point in speculating.
13 Q. Was there ever any discussion about
14 selling that subsidiary while you were employed at
15 Reynolds?
16 A. Selling that subsidiary? I don't recall a
17 discussion about selling it.
18 Q. Was that under R & D in '89 to '91,
19 that subsidiary?
20 A. Well, let's see now. '89 to '91, where was I?
21 I can't remember where it was organizationally,
22 '89 to '91.
23 Q. The marketing material that went to,
24 for example, users like JTI in Japan, did that
25 marketing material express the opinion that the

1 primary function, purpose or advantage to this
2 process was reducing biological activity or making
3 a safer cigarette?
4 A. Oh, I don't think so. I don't -- I don't
5 know for sure.
6 Q. What was -- what was espoused as the
7 primary --
8 A. I don't know. I -- I don't know. I mean, I
9 don't recall seeing the marketing material.
10 Q. Is there somebody that's credited with
11 developing the G13 process?
12 A. I don't think there's an individual who's
13 credited with that, that I'm aware of. It was
14 a -- there were a number of people involved in it.
15 Q. In the 1991 calendar, Exhibit 24, you
16 have an entry of February 4th that says at 3:30
17 "HCFC-123 Conversion & Expanded Tob. usage." I
18 think I'm reading it right. I don't know. You
19 can tell me if I'm not.
20 A. Okay. Let's see.
21 Q. Is that correct?
22 A. Yeah. "HCFC-123 Conversion & Expanded
23 Tobacco usage." That's right.
24 Q. What's the "HCFC-123 Conversion"?
25 A. HCFC-123 was a proposed replacement for

1 Freon 11, which was used in the tobacco expansion
2 process.
3 Q. Do you know what the HCFC stood for?
4 A. No. It has something to do with the chemical
5 formula for the molecule of the freon, that's all.
6 But I can't describe it exactly to you. It was --
7 it was the supplier's name for the stuff.
8 Q. Do you know what supplier supplied the
9 ammonia that was used while you were employed at
10 Reynolds?
11 A. Ammonia? I do not.
12 Q. The initials of these people, "GRD"
13 was --
14 A. DiMarco.
15 Q. -- DiMarco. "TEB" or "TFB"?
16 A. "TFB". That would be -- could I see it?
17 (DOCUMENT HANDED TO WITNESS FOR REVIEW)
18 "TFB" would be Fred Bailey.
19 Q. Who was he?
20 A. He was the head of the tobacco processing
21 division at that time.
22 Q. How about those other people? Do you
23 know who they are?
24 A. "D. Pugh" would be Dan Pugh. "JLM," I'm not
25 sure about that one. "Joe I." would be Joe Inman,

1 I-N-M-A-N.

2 Q. Who's that?

3 A. He was in the R & D department. "R. Suber,"
4 I believe refers to Dr. Robert Suber.

5 Q. Who's that?

6 A. He's a scientist in R & D.

7 And it says, "Maybe Mike". And I have
8 no idea who "Mike" is.

9 Q. And you have an entry on May 28th of
10 1991 at four o'clock, "Nicotine Research, TCG,
11 GRD, AWH".

12 A. Uh-huh.

13 Q. Do you know what you would have been
14 looking at in May of 1991 with respect to nicotine
15 research?

16 A. I do not know. It must have been -- could I
17 see it?

18 (DOCUMENT HANDED TO WITNESS FOR REVIEW)

19 Nicotine research. I don't know the
20 topic of that meeting. It clearly had something
21 to do with some nicotine research, but I don't
22 recall what was discussed there.

23 VIDEOGRAPHER: We're going off the
24 record at 3:04 p.m.

25 (RECESS TAKEN FROM 3:04 P.M. TO 3:23 P.M.)

1 VIDEOGRAPHER: We're going back on the
2 record at 3:23 p.m.

3 BY MR. MAISTROS:

4 Q. Exhibit 25 is something I'll mark,
5 that you didn't bring with you, okay?

6 A. Okay. I guess. If they say it's okay, it's
7 okay with me.

8 MR. MORROW: He'll be giving it to
9 you.

10 (PLAINTIFF'S EXHIBIT NUMBER 25 WAS MARKED
11 FOR IDENTIFICATION)

12 BY MR. MAISTROS:

13 Q. It's an organizational chart. And
14 underneath the fourth box over is your name. And
15 way below that it says "Tentative". Do you know
16 if this was ever implemented?

17 (WITNESS REVIEWS DOCUMENT)

18 A. Some form of it was implemented. I don't
19 believe it was exactly as shown on this particular
20 exhibit right here.

21 Q. But you were leader of R & D Process
22 Engineering?

23 A. Yes, I was.

24 Q. And were any of those divisions below
25 your name ever actually implemented?

1 A. Well, the new process development division
2 was implemented. And so was the new process
3 instrumentation division. The other two I -- may
4 have been, but I'm not certain. There were more
5 than two divisions in my group, but I'm not sure
6 those -- they were org -- I can't remember how the
7 other two were named or --

8 Q. Okay. These other groups did exist,
9 Brand R & D, Applied R & D --

10 A. Yes.

11 Q. -- Fundamental?

12 A. Yes.

13 Q. This would have been the '81 to '83
14 time period?

15 A. Uh-huh. Right. Yep, that looks familiar.

16 Q. How often would you get together with,
17 say, McKenzie, Piehl, Rodgman, Giles and Teague to
18 discuss what was going on in your various groups?

19 A. My recollection is approximately once a month
20 or so, whenever Morse called a meeting for the
21 group.

22 (PLAINTIFF'S EXHIBIT NUMBER 26 WAS MARKED
23 FOR IDENTIFICATION)

24 BY MR. MAISTROS:

25 Q. I'll show you what I'll mark as Number

1 26. It's a March 23rd, 1981, memorandum from a C.
2 L. Neumann to a Dr. Piehl and a Dr. Lloyd. And
3 you're shown as being copied on this?

4 MR. MORROW: Just a second. You want
5 to give him time to read it, don't you?

6 MR. MAISTROS: It may not be
7 necessary.

8 BY MR. MAISTROS:

9 Q. Who was Neumann in 1981?

10 A. That would be Cal Neumann. I remember the
11 person, but I do not remember exactly what his job
12 was in '81.

13 Q. How about Piehl and Lloyd?

14 A. Piehl was Don Piehl, and he was the head of
15 Applied R & D. R. A. Lloyd was Dr. Robert A.
16 Lloyd; and I don't remember what his job was
17 either at that time.

18 Q. There is a -- you're perfectly
19 entitled to read the entire memo, but there's a
20 long list of people copied on the back.

21 A. Yeah.

22 Q. And, as you look at that list of
23 people, can you tell me if that was normal, for
24 memos of this type to be copied to that many
25 people?

1 MR. BELASIC: I'll object to the form.
 2 Vague as to "memos of this type".
 3 THE WITNESS: I don't know if that was
 4 typical or not.
 5 BY MR. MAISTROS:
 6 Q. Do you recognize the names of all
 7 those people that are copied on this memo?
 8 A. I'll just spend a few minutes on that.
 9 (WITNESS REVIEWS DOCUMENT)
 10 I don't remember all of them. I
 11 remember some of them.
 12 Q. Are any of those people listed
 13 attorneys?
 14 A. I'm not sure.
 15 Q. And I guess you will have to read the
 16 memo to answer this question. But do you know why
 17 you would have been copied on this memo?
 18 A. Let me read the memo and see if I can give
 19 you an answer to that.
 20 (WITNESS READS DOCUMENT)
 21 Can I ask a question? Is that
 22 permissible?
 23 Q. Sure.
 24 A. It says in here in paragraph 2: (Reading)
 25 The study employed a

1 monadic ballot (Figures 1
2 through 5).

3 Where are figures 1 through 5?

4 Q. That, I don't know.

5 A. Okay.

6 I do not know why this memo was sent
7 to me.

8 Q. Do you know what the full -- or the
9 "FFLT Nicotine-Satisfaction Study" was? That's
10 the caption.

11 A. I -- I only know what is described in this
12 memo. FFLT stands for fuller flavor low tar. I
13 can tell you that.

14 Q. In the summary section it references a
15 third -- third sentence: (Reading)

16 Nicotine and sugar were
17 manipulated by substitution
18 of specialty tobaccos while
19 maintaining overall Camel
20 Lights blend proportions.

21 Do you know what the reference to
22 "specialty tobaccos" is?

23 A. No, I do not.

24 Q. Do you know what the -- in the fifth
25 conclusion "nicotine intake calculations show that

1 the maximum T/N is about 14" means?

2 A. Well, T/N would mean the ratio of tar divided
3 by nicotine. But I don't know what they mean in
4 that sentence by the maximum T/N. I don't -- I
5 don't understand that sentence.

6 Q. Do you know what is meant by the last
7 sentence of that, that says: (Reading)

8 Major compensation for
9 reduced nicotine occurs above
10 these levels?

11 A. I do not know what they mean there.

12 Q. Do you know what research this could
13 have possibly been related to?

14 A. What it could have been related to? I don't
15 know.

16 VIDEOGRAPHER: Mr. Maistros, we have
17 five minutes left on the videotape.

18 BY MR. MAISTROS:

19 Q. Did Reynolds, during this time period,
20 market cigarettes that had different
21 tar-to-nicotine ratios?

22 A. I can't recall.

23 Q. And do you know what I mean by that
24 question?

25 A. I think so. Did some of the products have

1 different tar-to-nicotine ratios than others?
2 Q. Yes.
3 A. That's the way I took your question.
4 Q. Yes.
5 A. The answer is I don't know.
6 Q. Where were you in '81? I forget.
7 Where you at the plant number 1?
8 A. '81? I was in process engineering. R & D, I
9 believe.
10 Q. Manager of traffic and distribution?
11 A. No. That was in '80.
12 Q. Director of process engineering?
13 A. Correct.
14 Q. What was your last month at Reynolds?
15 A. December 1991.
16 Q. Did Reynolds sponsor stop smoking
17 programs for its employees?
18 A. I don't recall stop smoking programs for the
19 employees.
20 Q. Up to the point in time you left in
21 '91, did Reynolds allow smoking in all of its
22 facilities?
23 A. I believe they did.
24 MR. MAISTROS: We have to change
25 tapes. It will only take a minute, okay?

1 VIDEOGRAPHER: We're going off the
2 record at 3:37 p.m.

3 (RECESS TAKEN FROM 3:37 P.M. TO 3:39 P.M.)

4 VIDEOGRAPHER: This is tape 3 of the
5 videotape deposition of David Isbister. We're
6 going back on the record at 3:39 p.m.

7 (PLAINTIFF'S EXHIBIT NUMBER 28 WAS MARKED FOR
8 IDENTIFICATION)

9 BY MR. MAISTROS:

10 Q. Exhibit 28 is dated May 5th, 1982.
11 It's from Rodgman to Morse and DiMarco, and you're
12 copied on it. And during that time period you
13 were still director of process engineering,
14 correct?

15 A. May 5, '82, I believe that's correct.

16 Q. And the subject says "Weekly
17 Highlights Fundamental R & D and Agriculture
18 Programs"?

19 A. Uh-huh.

20 Q. Do you know why you would have been
21 copied on a memo such as this in May of 1982 as
22 director of process engineering?

23 A. Well, I'll have to read it and I'll try and
24 give you an answer.

25 (WITNESS READS DOCUMENT)

1 This copy I have has got a stamp on it
2 that says "in Barnes". I can't read some of these
3 words here. Maybe you can help me with this, if
4 you have a different copy or something.

5 Q. I have just as bad of a copy.

6 A. In answer to your question, I believe that --
7 that this was sent to me by virtue of the fact
8 that process engineering was doing work in support
9 of one of these items, namely item 3 on the first
10 page: (Reading)

11 Carbonized Filler
12 Cigarettes. Experiments are
13 in process to obtain a carbon
14 balance for the cigarettes
15 made with filler containing
16 50 percent carbon (prepared
17 by process engineering
18 personnel). Results will
19 determine whether higher
20 sidestream vapor phase
21 deliveries are a result of
22 reduced sidestream
23 particulate delivery.

24 Q. Where was there carbon filler in
25 cigarettes in '82? In the tobacco or in the

1 filter?
2 A. I believe this refers to tobacco filler
3 containing 50 percent carbon.
4 Q. Do you know what that was called? Was
5 there a product name for that?
6 A. No. It was just an experimental material. I
7 think it was called carbonized filler, or
8 something like that.
9 Q. Was it ever marketed?
10 A. Not to my knowledge.
11 Q. Do you know -- in the top it says
12 "Internal Development: Progress Against Action
13 Programs".
14 A. Uh-huh.
15 Q. Do you know who developed the action
16 programs?
17 A. The management of R & D, in conjunction with
18 the people they reported to.
19 Q. Would that include you?
20 A. Uh-huh.
21 Q. In '82?
22 A. Uh-huh.
23 Q. And there's, on that second page, that
24 "Biobehavioral Research" heading.
25 A. Yeah.

1 Q. Did you have anything to do with
2 that -- the research that's referenced under that
3 heading at Bowman Gray?

4 A. Huh-uh. No, this -- this, of course, is
5 authored by Rodgman, who was head of the
6 fundamental R & D unit at that time, and his --
7 his area was responsible for that. I don't recall
8 any involvement we had with that.

9 Q. Was it unusual or out of course for
10 Rodgman to have copied you on documents he was
11 sending to Morse?

12 A. Oh, I wouldn't say it was unusual. I -- I
13 think that, if there was an item in the document
14 that pertained to our group, he might be inclined
15 to send me a copy of it, because it pertained to
16 that -- you know, because that item was included.

17 Q. Do you know who those other people
18 copied are? Other than yourself.

19 A. Uh-huh. I do.

20 Q. Who are they?

21 A. Jay Giles, J-A-Y, Giles. Jim Phillips.

22 Q. Now, who is Giles?

23 A. Well, let's see. I think -- you have the
24 chart here? He's on this chart where it says
25 R & D Technical Services Group.

1 Q. And Phillips?
2 A. Jim Phillips was in R & D also. I don't know
3 if he's on this chart or not.
4 Q. Piehl and Teague we know. What's that
5 last name. Can you read that?
6 A. Tom Eskew.
7 Q. Who is he?
8 A. He was in R & D as well.
9 I don't see him on this chart, though.
10 I don't know where he was at that time.
11 Oh, here he is, R & D Plant Division.
12 Down here. That's T. H. Eskew. J. D. Phillips is
13 probably on here somewhere too.
14 Q. Let me show you --
15 A. Although I don't see him at the moment.
16 Q. -- a memo I've marked 29. It's
17 May 25th, 1983.
18 (PLAINTIFF'S EXHIBIT NUMBER 29 WAS MARKED
19 FOR IDENTIFICATION)
20 THE WITNESS: Uh-huh.
21 BY MR. MAISTROS:
22 Q. It shows it's sent to you, among
23 others, from -- is that R. K. Teague?
24 A. Uh-huh.
25 Q. And it says: (Reading)

1 Attached please find an
2 addition for the
3 Biobehavioral section of your
4 R & D Program Plan Book.

5 What's the R & D Program Plan Book?

6 A. That would refer to the annual plan of R & D
7 work, that we worked -- worked up every year about
8 what we were going to do for that coming year.

9 Q. And it references in the next line:

10 (Reading)

11 This addition takes into
12 account the effect of the new
13 Smoking & Health program on
14 the Biobehavioral Division.

15 A. Uh-huh.

16 Q. Is it your understanding that the
17 smoking and health program was new as of May of
18 1983?

19 A. I don't know whether it was new or not. I do
20 not know the answer to that question.

21 Q. And attached to this are "Estimated
22 Manpower/Facilities Requirements for Proposed
23 Biomedical Research Program" with various
24 objectives listed. There's objective 1.

25 A. Uh-huh.

1 Q. "Positive Aspects of Smoking." Next
2 page objective 2, "Products with Actual or
3 Perceived Lower Risk." Do you see those?
4 A. Mine goes from 1 to 4, it looks like.
5 Q. I'm sorry. See on the second page --
6 A. Oh, here it is, bottom of the second page,
7 objective 2. Okay.
8 Q. Did you have anything to do with the
9 development of either of those objectives?
10 A. You're going to have to let me read it if you
11 want me to answer that one.
12 (WITNESS READS DOCUMENT)
13 Your question was: Did I have
14 involvement in developing the objectives for this
15 document?
16 Q. Yes.
17 A. Is that your question?
18 No.
19 Q. How about in carrying them out?
20 A. My answer to that would be, to the extent
21 that I was responsible for R & D in the '89/'91
22 period, yes.
23 Q. Were these objectives still in
24 existence in '89 to '91?
25 A. I don't know whether these specific

1 objectives, as stated in this document which is
2 dated 5/24/83, were objectives that were still
3 included in that time period or not.

4 Q. What's the second -- objective number
5 2?

6 A. (Reading)

7 Modify mainstream --
8 Products with Actual or
9 Perceived Lower Risk. Modify
10 mainstream smoke to develop
11 new and modified products
12 which are responsive to
13 consumer demands/perceptions
14 and superior in value and
15 smoker satisfaction to those
16 offered by our competitors.

17 Q. When you were head of R & D in 1989,
18 was that or a similar objective still in existence
19 at Reynolds?

20 A. An objective something like that may have
21 been in existence. I would say probably was. It
22 would not have been worded that way, though. I
23 mean -- but the -- the -- I guess that's the best
24 answer I can give you.

25 Q. Would there have been an objective

1 still in existence in '89 that had, as one of its
2 components, developing products with perceived
3 lower risk?

4 A. I don't think it would have been stated that
5 way.

6 Q. Do you know how long it was an
7 objective at Reynolds, at least within the
8 biobehavioral section, to have as an objective the
9 development of products with perceived lower
10 risks?

11 A. I do not know.

12 Q. Was there any program in effect when
13 you were head of R & D, from '89 to '91, that was
14 similar to the program of developing products with
15 perceived lower risks?

16 A. I don't believe so.

17 Q. Underneath that -- mine goes to number
18 2 underneath "Programs". I don't know if that's a
19 typo or one is missing, but do you see where I see
20 number 2 below that?

21 A. I believe I do. Uh-huh. "Develop
22 quantitative information"; is that what you're
23 talking about?

24 Q. Right. Could you read that slowly.

25 A. (Reading)

1 Develop quantitative
2 information regarding the
3 processes of absorption,
4 transport, metabolism and
5 excretion of smoke/tobacco
6 components with emphasis on
7 nicotine and their relation
8 to usage behavior or other
9 factors. Develop
10 quantitative information
11 about the effects of tobacco
12 use on the blood chemistry of
13 consumers.

14 Q. Do you know if that or a similar
15 program remained in effect from '83 until you were
16 head of R & D in '89?

17 A. I do not know.

18 Q. Do you know if that or a similar
19 program was in effect after you became head of
20 R & D in '89?

21 A. There was some work on some of those topics,
22 but I don't -- I can't give you details as to
23 which ones and how many and so forth. I just
24 don't recall.

25 Q. In 1983, were any portion of your work

1 as director of process engineering have -- would
2 have any of your work involved the development of
3 quantitative information, such as set forth in
4 this paragraph.

5 A. I don't know.

6 Q. Do you know if Teague was a
7 well-respected employee of Reynolds while he was
8 employed there?

9 A. I don't know.

10 Q. Did you ever have any dealings with
11 him?

12 A. I recall -- you asked me about Teague this
13 morning and I said I didn't remember. I now --
14 seeing this signature, I now remember who he was;
15 his name is Richard Teague. But I had very little
16 dealings with Mr. Teague. He was an
17 administrative assistant, I believe, to
18 Dr. DiMarco.

19 Q. I asked you earlier about nicotine
20 analogues. Remember that?

21 A. Uh-huh.

22 Q. You said you knew what they were. I
23 don't think I asked, counsel will remind me if I
24 did, what the primary purpose of developing
25 nicotine analogues was.

1 A. I don't recall.
 2 (PLAINTIFF'S EXHIBIT NUMBER 30 WAS MARKED
 3 FOR IDENTIFICATION)
 4 BY MR. MAISTROS:
 5 Q. Exhibit 30 is -- it's got a couple of
 6 dates on it. But the one in type, in the
 7 right-hand -- upper right-hand corner is May 27th,
 8 '83, from Fredrickson to Stewart. You're the
 9 first person copied on the last page.
 10 (WITNESS REVIEWS DOCUMENT)
 11 A. Uh-huh.
 12 Q. First, do you recall any research
 13 having to do with the title of this memo, which is
 14 what?
 15 A. You mean where it says "Subject"?
 16 Q. Yes.
 17 A. It says, "Ammoniated and Denicotinized
 18 Tobaccos Available for Evaluation".
 19 What was your question? I'm sorry.
 20 Q. Do you remember any research or
 21 studies being done with respect to that topic in
 22 '83?
 23 A. I don't recall that. You know, there's a
 24 memo sitting here, but I don't recall the
 25 research.

1 Q. Do you know who Fredrickson was?
2 A. Uh-huh. Jim Fredrickson.
3 Q. Who was he?
4 A. He was a scientist in the process
5 development -- process engineering group that I
6 was responsible for.
7 Q. You were his supervisor?
8 A. No. He worked under Grant Stewart, I
9 believe, but I'm not certain about that, who
10 worked for me.
11 Q. So it went you, Stewart, Fredrickson?
12 A. I believe that's correct.
13 Q. What was Stewart's title?
14 A. I don't remember his title.
15 Q. But Stewart was in process
16 engineering --
17 A. Yes.
18 Q. -- when you were director?
19 A. That's correct, he was.
20 Q. This one I would ask you to read and
21 ask you if you recall receiving this memo.
22 A. Okay.
23 (WITNESS REVIEWS DOCUMENT)
24 Do I remember reading this? Is that
25 your question?

1 Q. Receiving it.

2 A. Receiving it. I do not remember receiving
3 it.

4 Q. In this first paragraph it talks
5 about: (Reading)

6 Two ammoniation-denitric --
7 denitricotization processes
8 were studied in 1982. One
9 process comprised the
10 application of aqueous
11 ammonia and steam on a porous
12 belt. The other process
13 consisted of the simultaneous
14 impregnation with ammonia and
15 Freon 11 followed by
16 expansion and steaming in a
17 G13 pilot unit.

18 Were those two processes you were
19 familiar with in 1983?

20 A. Well, I was -- I don't remember whether I was
21 familiar with them in 1983 or not. That's 14
22 years ago.

23 Q. Was he talking about expanded tobacco
24 here or reconstituted tobacco, or both?

25 A. This memo?

1 Q. Yes.

2 A. As I just read it, I believe it's talking
3 about expanded tobacco. It's only talking about
4 reconstituted to the extent that it could be a
5 replacement for -- a possible replacement for
6 reconstituted. As I read it, today.

7 Q. Do you know why someone such as
8 Fredrickson and/or Stewart would have been
9 interested in measuring the pH levels of the
10 tobacco after it was treated with ammonia or
11 Freon 11?

12 MR. BELASIC: Objection. It calls for
13 speculation.

14 THE WITNESS: I don't know why. No.
15 BY MR. MAISTROS:

16 Q. Do you know anything about how the pH
17 level affects the smoking process in any fashion?

18 A. No.

19 Q. Have you heard any theories on the
20 role pH plays in either the smoking process or the
21 nicotine absorption process?

22 A. I don't recall any -- I recall that ...

23 I don't recall pH is related to
24 nicotine transfer.

25 Q. Mr. --

1 A. I believe I heard a hypothesis once, stated
2 by a scientist, that -- that ammonia could affect
3 nicotine transfer. I don't know if that was ever
4 proven or not -- not proven.

5 Q. In the first paragraph, the last --
6 second to last sentence says: (Reading)

7 Some (sic) modified
8 tobaccos may provide new ways
9 to control nicotine delivery
10 and modify smoking
11 characteristics.

12 A. Uh-huh.

13 Q. Do you know what Mr. Fredrickson meant
14 by "modify smoking characteristics"?

15 MR. BELASIC: Objection, calls for
16 speculation.

17 THE WITNESS: I don't know what he
18 meant there by smoking characteristics.

19 BY MR. MAISTROS:

20 Q. Do you know what he meant by "Such
21 modified tobaccos may provide new ways to control
22 nicotine delivery"?

23 A. Well, I assume he's talking about the
24 denicotinization of the tobacco. I mean, if you
25 remove nicotine from the tobacco, that tobacco is

1 going to deliver less nicotine in the smoke than
2 it did before, all other things being equal. And
3 I've already stated this morning, we had a process
4 in production that removed nicotine from tobacco.
5 For that very purpose, to control nicotine level.

6 And I think he's talking, as -- as he
7 says, this might be another way to do it, is what
8 I take out of this memo.

9 Q. Is it your reading of this memo that
10 the entire memo is focused upon denicotized
11 tobacco as opposed to expanded tobacco?

12 A. Well --

13 MR. BELASIC: Objection. Calls for
14 speculation. Whatever the document says is what
15 the document says.

16 THE WITNESS: Yeah. I mean, you just
17 have to read it.

18 MR. MAISTROS: I'll stipulate to that.

19 THE WITNESS: It talks both about
20 denicotinizing and puffed tobacco.

21 BY MR. MAISTROS:

22 Q. Are they one and the same?

23 A. Well, not necessarily.

24 Q. If you go to table 3, what are the
25 headings across there?

- 1 A. "Untreated Puffed," "Ammoniated Puffed" and
2 "Denicotinized Puffed".
- 3 Q. What's the highest pH level of those
4 four types of tobaccos?
- 5 A. Ammoniated Puffed, it says. According to
6 this data.
- 7 Q. Do you know who C. K. Lee was? He's
8 in a footnote on page 6. It's numbered 6 on the
9 bottom.
- 10 A. I believe that's Chin Lee, who was a
11 scientist in the R & D department at that time.
- 12 Q. Do you know what type of projects he
13 worked on?
- 14 A. He was an expert in -- I shouldn't say. I'm
15 not sure what type projects he worked on.
- 16 Q. In the --
- 17 A. I don't know.
- 18 Q. If you go back to page 5, you see the
19 heading "Ames Tests on Cigarette Smoke Condensate
20 From Ammoniated Tobacco"?
- 21 A. Uh-huh.
- 22 Q. Were you aware that Reynolds was doing
23 Ames tests on ammoniated tobacco?
- 24 A. Uh-huh. Yes.
- 25 Q. What were the results of that

1 research?

2 A. I don't know what the results of the Ames
3 tests research were.

4 Q. Were you aware, in May of 1983, that
5 the research to that date showed that there was
6 increase in -- rather than mischaracterize, I'll
7 read it as the sentence appears in this memo.

8 (Reading)

9 Three series of Ames
10 tests have been carried out
11 on smoke condensate from
12 ammoniated and steamed
13 flue-cured tobaccos (Tables
14 VI, VII and VIII) --

15 A. Where? What page --

16 Q. We're on page 5 still. (Reading)
17 -- in a four-year
18 period. In all of the tests
19 the activity of the smoke
20 condensate from 100 percent
21 flue-cured cigarettes was
22 increased significantly by
23 extensive ammoniation.

24 Do you know what that means?

25 A. Well, I presume it means -- and I don't --

1 I -- it says "the activity". I know -- no, I
2 don't know what "the activity" means.

3 Q. Do you know -- and you don't know what
4 the research ultimately showed with respect to
5 Ames activity of ammoniated tobacco?

6 A. Well, he's referring to ammoniated flue-cured
7 tobacco here.

8 Q. Okay. That's a particular type of
9 tobacco, right?

10 A. It certainly is.

11 Q. It's used in cigarettes, though, isn't
12 it?

13 A. Yes, it's used in cigarettes.

14 Q. And in '83 --

15 A. Flue-cured tobacco is used in cigarettes,
16 now. I don't want my statement misunderstood
17 here. You asked me is flue-cured tobacco used in
18 cigarettes, is the way I took your question. And
19 the answer is yes, it is used.

20 Q. Yes.

21 What were you concerned about being
22 misunderstood?

23 A. I don't want you to take from that statement
24 that this ammoniated flue-cured tobacco was used
25 in cigarettes, other than for test purposes.

1 Q. As you sit here today, you don't know
2 that Reynolds ever used ammonia in cigarettes that
3 it was actually marketing?

4 MR. BELASIC: Objection.

5 MR. MAISTROS: It's a question.

6 THE WITNESS: I certainly don't.

7 BY MR. MAISTROS:

8 Q. How about between '89 and '91, would
9 you have known if Reynolds was using ammonia in
10 cigarettes it was marketing?

11 A. I said early -- I said this morning that
12 ammonia was used in reconstituted tobacco, in
13 cigarettes that were marketed. That's not what
14 this memo is talking about, however.

15 Q. What's it talking about?

16 A. It's talking about a special test on
17 flue-cured tobacco with ammonia.

18 Q. Well, that portion of the memo is --

19 A. Yeah.

20 Q. -- that I just read.

21 A. Yeah. That's the portion that talks about
22 elevated numbers on some tests. And I'm -- I'm
23 saying that does not translate to cigarettes
24 produced and sold, by any matter of the -- stretch
25 of the imagination, from the information of this

1 memo here.
2 Q. I understand that.
3 A. Okay. I just wanted to be clear on that.
4 Q. I don't think I was suggesting that.
5 A. Okay. I didn't -- didn't say you were, but I
6 wanted to be clear on that point.
7 Q. Everything is subject to whatever this
8 memo is talking about.
9 A. Yeah. Correct.
10 Q. I wasn't making a leap.
11 A. Correct.
12 Q. But earlier you did say that you were
13 aware that ammonia was used in the tobacco
14 process, correct?
15 A. Yes.
16 Q. At least somebody's doing studies in
17 1983 to determine the effect of ammonia on the pH
18 of the tobacco, in part, correct?
19 A. Uh-huh. Yeah. True.
20 Q. Now, there is a -- go to 5A, which
21 appears after 6. You see that? See that
22 footnote? "Lynn"?
23 A. "Lynn, Dwo"?
24 Q. Yeah. Who is that? It's probably Dwo
25 Lynn, but --

1 A. Dwo Lynn, yeah. I believe he was a scientist
2 in R & D.

3 Q. Do you know what the word
4 "Deoxyfructosazine Analysis of Puffed and
5 Ammoniated Tobacco," what is that in reference to,
6 do you know?

7 A. I think deoxyfructosazine is a chemical
8 compound, but I have no idea what it is.

9 Q. The people copied on the last page of
10 this, other than Dickerson and Stowe, who are
11 those people?

12 A. George Leeper was a scientist in process
13 engineering. You said you knew who Dickerson and
14 Stowe was -- are, right?

15 Q. Who were they? Just for the record.

16 A. Well Jim Dickerson was a scientist in R & D
17 and so was Mary -- Dr. Mary Stowe, both doctors.
18 So was George Leeper. H. E. Guess is Hal Guess.

19 Q. Who is he?

20 A. He was in R & D as well, but he was not a
21 scientist, I don't believe.

22 E. H. Villegas refers to Elizabeth --
23 Villegas is the way that's pronounced,
24 V-I-L-L-E-G-A-S. And I don't recall who C. H.
25 Curtis was.

1 Q. Who was Villegas?

2 A. Villegas was in R & D as well. I'm not sure
3 whether she was a Ph.D. or not.

4 (PLAINTIFF'S EXHIBIT NUMBER 31 WAS MARKED
5 FOR IDENTIFICATION)

6 BY MR. MAISTROS:

7 Q. Exhibit 31 is a handwritten note from
8 the desk of David Isbister. And ask you if you
9 can read that writing.

10 A. I don't know if I can read that or not. It
11 says, "Bob DiMarco, Re: Our discussion on"
12 something. I can't read that word. And I can't
13 read the two words following it. Or the next one.
14 "Here is an overview of the approaches previously
15 looked into. Dave. PS, they are running percent"
16 something "in puffed" something "now".

17 Q. You can't read that word on the third
18 line down? It looks like it begins with a B,
19 bagnosee (phonetics) or --

20 A. I don't know what that says. It looks like a
21 B, but --

22 Q. I can't read it either. The only
23 purpose was to ask if you knew what it was.

24 A. I can't read it. That's my writing, but
25 damned if I can read it.

1 (PLAINTIFF'S EXHIBIT NUMBER 32 WAS MARKED
2 FOR IDENTIFICATION)

3 BY MR. MAISTROS:

4 Q. Let me show you a memo dated
5 September 3rd, 1991, from David Doolittle and Don
6 DeBethizy to James Johnston. You're copied. Ask
7 you if you recall being copied on this document.
8 Four months before you left Reynolds.

9 A. Your question was do I recall receiving this?

10 Q. Yes.

11 A. I don't recall receiving the memo.

12 Q. Do you recall the '92 to '96 strategic
13 plan presented by Johnston?

14 A. Well, yes. I -- I mean, I -- there certainly
15 was a '92 to '96 strategic plan, and I was
16 involved in helping them put it together.

17 Q. Did you attend the August 22nd
18 presentation of the plan?

19 A. I don't recall. I'd have to look in my book.

20 Q. Did you know that Doolittle and
21 DeBethizy were going to send this document, before
22 they did?

23 A. No, I don't believe I did.

24 Q. Would you agree with their assessment
25 in the second to last paragraph that: (Reading)

1 We are suggesting that
2 the strategy of repositioning
3 our products by developing
4 cigarettes which address the
5 personal and social concerns
6 of smokers be specifically
7 identified as a component of
8 the RJRT Strategic Plan?

9 A. Well, it sounds like a good idea. I can't
10 tell you what I thought of it at the time, if I
11 received it. But -- and I can't tell you whether
12 it was done, either. I don't know.

13 Q. Do you know -- I'm sorry, I didn't
14 mean to cut you off.

15 A. I -- I said, you know, I -- I can't tell you
16 whether it was done at the time or not.

17 Q. Do you know what Johnston thought of
18 it?

19 MR. BELASIC: Objection. Calls for
20 speculation.

21 THE WITNESS: Well, I don't recall
22 discussing this specifically with Johnston. I may
23 have.

24 BY MR. MAISTROS:

25 Q. Was it true that in 1991 that the '92

1 to '96 plan, as then stated, the health concerns
2 was -- the addressing of the health concerns was
3 only implied as opposed to stated?

4 A. I don't remember. I -- I do remember
5 significant effort being planned in that area,
6 though, significant resources being applied
7 against them, in the plan.

8 Q. I'm reading on in that same paragraph.
9 Doolittle and DeBethizy state: (Reading)

10 We would suggest a tenth
11 objective (after all, 10 is a
12 nice round number). An
13 example of this objective
14 would be, "Investigate
15 alleged health hazards of
16 smoking and develop products
17 which address those
18 concerns."

19 Is it your recollection that the plan for
20 '92 to '96 did not have as a stated objective
21 "investigate alleged health hazards of smoking and
22 develop products which address these concerns"?

23 A. I -- I cannot recall whether it did or it
24 didn't.

25 Q. At this point in time, in September of

1 '91, both Doolittle and DeBethizy would have been
2 underneath you, correct?

3 A. No.

4 Q. Where would they have been?

5 A. Oh, yes, sorry. In '91, they would have
6 been. Sorry. You're quite correct on that.

7 Q. And DiMarco would have been their
8 immediate supervisor, wouldn't he?

9 A. I'm not sure about that. They probably were
10 under somebody who reported to DiMarco; either
11 Hayes or Burger, more than likely. In other
12 words, there's an intermediate reporting person
13 there, I believe.

14 Q. In the last paragraph, these gentlemen
15 state: (Reading)

16 After all, "We Work for
17 Smokers" and what better way
18 to work for them than to
19 develop products which
20 minimize their concerns
21 regarding the hazards of
22 smoking.

23 Would you agree with that statement as
24 you sit here today?

25 A. Would I agree with that statement today? No.

1 Q. What do you disagree with?

2 A. Where it says "their concerns regarding the
3 hazards of smoking". I don't think it's
4 sufficient to minimize your concerns. I think
5 that the goals should -- that such a goal should
6 include a serious effort to reduce the risk of
7 smoking, not the concerns about it.

8 Q. Did the '92 to '96 plan have as a goal
9 the reduction of the risks related to smoking?

10 A. I do not know if that was stated as an
11 objective or not. But as I said, there was
12 serious resources in the plan aimed at that as a
13 goal.

14 They seemed to be talking about how
15 explicit the thing was in the plan here, as I read
16 this memo. They wanted it laid out more clearly,
17 is -- is my interpretation of this treatment
18 today.

19 Q. And you don't know, as you sit here
20 today, whether DeBethizy's and Doolittle's
21 suggestions were followed out?

22 A. I don't know. I can't recall the outcome of
23 this.

24 MR. MAISTROS: Could we take a short
25 break, and I'll see if I can --

1 THE WITNESS: I would like that.
 2 VIDEOGRAPHER: We're going off the
 3 record at 4:28 p.m.
 4 MR. MAISTROS: -- can wrap-up where we
 5 are.
 6 (RECESS TAKEN FROM 4:28 P.M. TO 4:43 P.M.)
 7 VIDEOGRAPHER: We're going back on the
 8 record at 4:43 p.m.
 9 (PLAINTIFF'S EXHIBIT NUMBER 27 WAS MARKED
 10 FOR IDENTIFICATION)
 11 BY MR. MAISTROS:
 12 Q. Let me show you what I've marked as
 13 Exhibit 27. I went back to 27 because I noticed I
 14 skipped it earlier. So we do have an Exhibit 27.
 15 A. Uh-huh.
 16 Q. It's entitled "1991-1995 R & D
 17 Strategic Plan".
 18 A. Uh-huh.
 19 Q. Did you have anything to do with the
 20 formulation of that document?
 21 A. Probably I did, yes. Uh-huh. I would guess
 22 so. I mean, I haven't read it yet, but it seems
 23 reasonable that I had something to do with it.
 24 Q. As you look at that document, do you
 25 know -- or can you tell which portions, if any,

1 you had direct input in?
 2 A. Well, I have to read it.
 3 (WITNESS READS DOCUMENT)
 4 MR. BELASIC: Go off the record for a
 5 moment.
 6 VIDEOGRAPHER: Do you want to go off
 7 the record?
 8 MR. MAISTROS: Is that it, Mark?
 9 MR. BELASIC: I'm sorry, I'm just
 10 handing the witness an affidavit that relates to
 11 another -- counsel for plaintiff an affidavit that
 12 relates to another witness. It has nothing to do
 13 with this deposition.
 14 THE WITNESS: Your question was:
 15 Which of these did I have direct input on?
 16 BY MR. MAISTROS:
 17 Q. Yes.
 18 A. I cannot give you specific instances of
 19 direct input on anything in this plan. But I will
 20 comment -- make a couple of general comments.
 21 The Alpha effort is something that I
 22 had a high level of interest in and -- and did
 23 have some direct input in; I recall that. The
 24 general area of how the R & D plan tied to the
 25 plans of the leaf department was of interest to me

1 because leaf also reported to me. So I made a
2 real effort to try to make sure that the
3 components of this plan were -- were well melded
4 with those of the leaf department.

5 Likewise, I felt that it was part of
6 my responsibility to make sure this R & D plan
7 here was dovetailed with the marketing department
8 plans for the company too. And I made an effort
9 to do that.

10 There's a bunch of references in this
11 plan to packaging. The packaging company reported
12 to me. And there were a number of areas, projects
13 in here, that had effort required by people in
14 that organization as well.

15 The scientific priorities were
16 primarily set by Dr. DiMarco and his people. I
17 had an awareness of the general areas they were
18 working in. I may have made some comments. I
19 supported the expenditure of effort in total in
20 funding for that program. But I have to tell you
21 that most of the decisions on priorities there
22 were made by the scientists; which was right, is
23 the way it should be done.

24 I guess that's all I have to say
25 about my direct involvement in this plan.

1 Q. Do you know if this '91 to '95 R & D
2 Strategic Plan was implemented?

3 A. Well, it was implemented in -- in '91, I
4 believe. After '91, I can't say.

5 Q. Was this the strategic plan that
6 guided your actions in '91?

7 A. Well, it -- at least as it was laid out in
8 October 1990, the answer is yes. There may well
9 have been things that occurred during 1991 that
10 caused changes in this plan. I mean, I -- I can't
11 say that it guided my directions from October 1990
12 to December 1991, but this was the plan we had,
13 going into the year. Plans change, you know,
14 as -- as things happened.

15 Q. Was this -- any portion of this plan
16 utilized by Johnston in his August 22nd, 1991,
17 presentation of '92/'96 strategic plan that's
18 referenced in Exhibit 32?

19 A. I have no idea.

20 Q. Do you know Gary Burger?

21 A. Yes.

22 Q. What was his role in '91/'92?

23 A. He was a manager in R & D, I believe
24 reporting directly to DiMarco at that time.

25 Q. Do you know if he contributed in any

1 fashion to this '91/'95 strategic plan?

2 A. I think that's likely. I can't remember
3 specifics.

4 Q. He was manager of what?

5 A. I don't know. That's -- that's a different
6 time frame there. Completely. I don't recall his
7 exact responsibilities in '91.

8 Q. Did this '91/'95 strategic plan have
9 anything to do with your separation from the
10 company a year later? Play any role?

11 A. No.

12 Q. Do you know, if -- if you go in -- I
13 don't know an easy way to do this. Towards the
14 back, there's a big number on the bottom --
15 there's bigger numbers in the bottom which are
16 easier to read, 23215.

17 A. I'm sorry. I'm not -- oh, you mean over
18 here?

19 Q. RJR 23215?

20 A. Okay. Let's see. Yep, I got 23215.

21 Q. It says "1990 Resource Allocation
22 Plan". Then the next page it says 1991.

23 Do you know if those percentages
24 attached to those various programs were followed
25 in '90 and '91?

1 A. I don't know. I do not know the answer to
2 that.

3 Q. Do you know who was responsible for
4 attaching the percentage of resources allocated to
5 each of those various plans?

6 A. I do not know who was responsible for those
7 percentages, no.

8 Q. Were each of those -- well, "Support
9 to Marketing," "Technology Development," "Product
10 Understanding," "Affiliate Support," 1 through 4.
11 Do you see that?

12 A. Yeah, uh-huh.

13 Q. Were those four under your control as
14 director of R & D?

15 A. I was not director of R & D. The senior vice
16 president of R & D reported to me, and they were
17 under my control.

18 Q. I messed up the title, but these four
19 topics --

20 A. Yeah.

21 Q. -- are referencing R & D, correct?

22 A. Yes. Sure are.

23 Q. And is it fair to say that this is a
24 budget allocation for research and development at
25 Reynolds for 1990 with respect to R & D

1 activities?
 2 A. It says "Resource Allocation"; it doesn't say
 3 budget.
 4 Q. Does that limit it in some fashion, in
 5 your mind, to people or money or facilities?
 6 A. Resource would mean some mix of all of the
 7 above, I would think. Budget normally means
 8 bucks, dollars. In my mind.
 9 Q. So this would include dollars,
 10 employees, products --
 11 A. In mix, apparently. I mean, it's not
 12 too clear what resource really means here to me,
 13 today.
 14 Q. Well, do you know who was responsible
 15 for assigning, for example, in '91, different
 16 percentages to different topics? Go to that page
 17 23216. Are you on that page?
 18 A. Uh-huh.
 19 Q. Who would have been involved in -- in
 20 putting percentages on those four areas?
 21 (WITNESS REVIEWS DOCUMENT)
 22 A. I don't know who did that. I do not know.
 23 Q. Was there somebody in --
 24 A. It --
 25 Q. I'm sorry.

1 A. I don't know. Sorry.
2 Q. Was there somebody in research and
3 development in '89 to '91 that had the specific
4 task of looking at the safety from a health
5 standpoint of -- of additives that were used in
6 the tobacco process?
7 A. Yes.
8 Q. Would that have been within
9 toxicology?
10 A. Yes, there was. That was within toxicology.
11 Q. Now, you mentioned sometime ago that
12 there was quality tests run at the end of the
13 process to make sure that the tobacco met the
14 specifications you were provided during the
15 manufacturing process. Remember that?
16 A. Uh-huh. Yes, I do.
17 Q. Were there tests run to measure such
18 things as the pH of the tobacco?
19 A. I don't recall pH specifically, whether it
20 was tested or not, in the normal QA regime. I
21 don't -- I just don't remember.
22 Q. What would be the quickest, most
23 efficient way to determine what was tested by Q &
24 A?
25 A. QA? I don't know.

1 Q. Do you know if any tests were ever
2 done while you were at Reynolds to determine any
3 perceived or real health benefits of nicotine?

4 A. I think that there was some testing done on
5 that, but I can't give you specifics. I think
6 there was some done while I was there.

7 Q. You don't know what --

8 A. I don't know the specifics of it.

9 Q. Are you aware of -- of any studies --
10 results of any studies, from any source, that
11 indicate health benefits related to nicotine?

12 A. Well, I remember listening to a description
13 of a study that was done on schizophrenics - I
14 believe it was in England, but I'm not sure; it's
15 a long time ago - which suggested that smoking was
16 of some aid in treating that disease. And I -- I
17 was also -- I believe I also listened to a
18 presentation of a study that proposed the idea
19 that smoking or nicotine might be helpful in the
20 treatment of Alzheimer's disease. Those are the
21 only two examples that come to mind. But there
22 may be others.

23 Q. Did -- during your tenure at RJR, did
24 your group or your department do any research on
25 testing of chemicals, compounds, et cetera, used

1 in the Nabisco food market or product area?

2 A. I don't know. That's possible, but I -- I
3 don't recall specifics there.

4 Q. Were you ever called upon -- you,
5 research and development, called upon to provide
6 support to Nabisco?

7 A. I think that they did provide some support to
8 Nabisco. Again, I don't know the specifics -- I
9 mean, I can't recall the specifics.

10 Q. I will represent to you that Wallace
11 Hayes has testified that, from time to time, his
12 group, toxicology, did work for Nabisco. Is that
13 something you're familiar with?

14 A. I'm not familiar with the details, but I --
15 I'm not surprised by that statement of Wally
16 Hayes -- Wallace Hayes.

17 Q. Did Nabisco, during the years you were
18 employed at RJR, have the capabilities to call
19 upon resources of -- of tobacco for assistance?

20 A. The capabilities to call upon tobacco? I
21 think they -- they -- they could, if they wanted
22 to. I mean, it was a matter of whether R & D
23 could perform the work that they wanted and, you
24 know, were the resources available and so on.
25 That was worked out between R & D and them.

1 I don't recall getting involved in
2 that myself, the arrangements or anything like
3 that, but ...

4 Q. Did Johnston, to your knowledge,
5 interact with Nabisco?

6 A. Well, he was a member of the board of RJR
7 Nabisco, as is John Greeniaus who was the head of
8 Nabisco. And so I assume they had interactions.
9 I don't know anything about those interactions.
10 They went to board meetings together; I know that
11 much.

12 Q. I'll show you what I have marked as
13 Exhibit 33.

14 (PLAINTIFF'S EXHIBIT NUMBER 33 WAS MARKED
15 FOR IDENTIFICATION)

16 BY MR. MAISTROS:

17 Q. It's a two-page document, first page
18 is from Hayes to Griscom, copied to you, attaching
19 a letter from a William Neely of the Hazleton
20 Corporation to Hayes. If you would, look at both
21 of those documents, and ask if you recall
22 receiving those.

23 A. Let me look at them. To Griscom from Hayes.

24 (WITNESS REVIEWS DOCUMENT)

25 I don't recall getting this

1 specifically.

2 Q. Is that your handwriting on the first
3 page of the document?

4 A. It certainly is.

5 Q. Do you know what you were thanking
6 Mr. Hayes for?

7 A. I do not know.

8 Q. The second letter attached is from
9 Neely of Hazleton, and he's advising Hayes that
10 there will be specific allowance for Hazleton
11 employees to smoke within their facility. Do you
12 see that?

13 A. Uh-huh.

14 Q. And then Hayes copies you with that
15 letter, does he not? By the first memo.

16 A. Yeah, it looks like it was clipped together.

17 Q. And says "We can win! Please see
18 attached."

19 A. Uh-huh. Uh-huh.

20 Q. You have no idea what this -- either
21 of these documents are in reference to?

22 A. I don't know what I was thanking him for
23 there.

24 Q. Were you ever involved in any issues
25 related to allowing or permitting or facilitating

1 contractors or suppliers of Reynolds to allow
2 smoking within their facilities?
3 A. I don't recall being involved in that.
4 Q. What did Hazleton do for Reynolds?
5 A. I'm not sure. I don't know.
6 Q. Who was T. S. Griscom?
7 A. That would be Tom Griscom.
8 Q. What was his role in March of '91?
9 A. Oh, I forget his title. He was -- he
10 reported to Jim Johnston in charge of external
11 issues like government affairs and PR.
12 Q. Okay. Did you ever -- while you were
13 employed at Reynolds, did you ever hear of any
14 pressure by outside employees, advisors,
15 consultants to Reynolds, to not test additives for
16 your products?
17 A. Can you say that again? I'm not sure I
18 understood your question. Pressure from who?
19 Q. Did you ever receive any instructions,
20 suggestions, advice, that Reynolds should not be
21 testing additives that it used in its products,
22 tobacco products?
23 A. Should not be testing additives. No, I
24 didn't -- I don't recall receiving any such
25 advice.

1 Q. Do you recall any pressure being
2 applied upon Reynolds to not test any of the
3 ingredients it might use in its tobacco products?

4 A. No, I don't recall that.

5 Q. Do you know Alex Spears?

6 A. I've never met Alex Spears. I know who he
7 is.

8 Q. Who is he?

9 A. Well, he's with Lorillard. He was head of
10 research for a while, then CEO, and I'm not sure
11 what he's doing now.

12 Q. Do you know him well enough to express
13 an opinion as to his credibility?

14 A. No. Absolutely not.

15 Q. Did you ever have the opportunity to
16 meet with RJR counsel, attorneys, for the purpose
17 of discussing the testing that was being done at
18 Reynolds?

19 A. I don't recall a meeting specifically on that
20 subject with our lawyers. There could have been
21 one, but there's nothing that pops into my mind
22 related to testing.

23 Q. Do you recall any meetings with
24 counsel whereby research was discussed with
25 attorneys?

1 A. No, I do not.

2 Q. The documents you produced -- brought
3 with you in a folder, which was marked Plaintiff's
4 Exhibit 2, there's an employment agreement signed
5 by you of 11/9/88, and RJR Nabisco, Robert Gordon?

6 A. Uh-huh. Right.

7 Q. There may be other ones in here, but
8 do you know why you would have signed one in 1988
9 with Nabisco?

10 (WITNESS REVIEWS DOCUMENT)

11 A. Well, I think RJR Nabisco was the parent
12 company. Is that what you're asking? Why would
13 it be with RJR Nabisco?

14 Q. No, no. Is that who your contracts
15 were with?

16 A. This one was, yeah. Robert Gordon, at the
17 time, was senior vice president of corporate
18 personnel at RJR Nabisco, Incorporated, I believe.
19 October '88.

20 Q. There's an addendum that follows it,
21 two-page addendum. I'll mark these as 2A and B.
22 If there's no objection.

23 (PLAINTIFF'S EXHIBITS NUMBERED 2A AND 2B

24 WERE MARKED FOR IDENTIFICATION)

25 THE WITNESS: Uh-huh.

1 BY MR. MAISTROS:
2 Q. If you could, please put 2A on the big
3 one.
4 A. 2A on the big one?
5 Q. The long one.
6 A. Okay.
7 Q. And 2B on the two-page one.
8 Do you recall if all of your
9 agreements, while you were employed at Reynolds,
10 were executed with Nabisco as opposed to Reynolds
11 Tobacco?
12 A. I don't remember.
13 (PLAINTIFF'S EXHIBIT NUMBER 2C WAS MARKED
14 FOR IDENTIFICATION)
15 BY MR. MAISTROS:
16 Q. Exhibit 2C is an August 15th, 1991,
17 letter from James Johnston to you, exercising
18 involuntary termination.
19 MR. MAISTROS: Was this copied?
20 MS. KNISELY: Yes.
21 BY MR. MAISTROS:
22 Q. Did you respond in writing to that
23 letter, do you recall?
24 (WITNESS REVIEWS DOCUMENT)
25 A. Yes, I believe I did.

1 Q. Is that in these documents you've
2 produced today?

3 A. I don't think so. I think -- I think there
4 were two copies of this and that I kept one, and
5 signed one, and sent it back to him. So I
6 wouldn't have that one, he would have it.

7 Q. Yeah. But did you actually produce a
8 different document in response to that letter?

9 A. No, I don't believe so. I believe -- this
10 says: (Reading)

11 Please indicate your
12 acceptance of the terms of
13 this agreement by signing
14 this letter and returning it
15 to me.

16 Q. Was there any negotiation that led up
17 to that document? Or did you just sign what he
18 presented you?

19 A. There -- there were -- there was a meeting
20 between myself and the lawyer who dealt with
21 personnel matters in the company about -- you
22 know, to sort of review this thing, to -- to go
23 over it. And at that meeting I asked some
24 questions, and the company lawyer advised me that
25 I had time and recommended I consult my own lawyer

1 about this before I sign it.

2 Q. Did you?

3 A. I don't believe that I did.

4 Q. Was there anything in any prior drafts
5 that you disagreed with, that was deleted from
6 these versions in front of you?

7 A. I don't think so. I don't remember anything
8 like that.

9 Q. Is there -- and I could read it and
10 probably answer myself, but since it was produced
11 today, in an effort to save time, do you recall if
12 there was anything that provided compensation to
13 you if you ever had to appear for litigation, such
14 as we're here today?

15 A. I don't remember a -- a provision like that.
16 It could be in here, but I'd have to read the
17 whole thing too. I -- I don't recall that.

18 Q. Have you received, other than -- are
19 you still -- you're still getting retirement
20 benefits, are you not?

21 A. Yes.

22 Q. Are you receiving any other
23 compensation from Reynolds?

24 A. Other than retirement benefits?

25 Q. Yes.

1 A. I still have a company paid life insurance
2 policy, I believe. I think that's the -- oh, and
3 I -- and I belong to Winston-Salem Health and
4 Dental Care, for which I make monthly payments
5 myself. But the company also contributes to that
6 as part of my retirement deal.
7 Those are the only ones I can think of
8 right off, you know -- if I went back through all
9 these stacks, I might find something else. Those
10 are the only ones I can remember offhand.
11 Q. Okay. And you've done no
12 tobacco-related work since December of 1991?
13 A. No, sir. For Reynolds or anybody else.
14 Q. On page 10 of the agreement,
15 employment agreement, of October 31st of '88, 2A.
16 A. 2A? Am I on the right thing?
17 Q. Yes, you are.
18 A. October '88? Page 10? I don't have a 2A on
19 page 10.
20 Q. No, I'm sorry. This is --
21 A. Oh, 6A. You're looking at 6A?
22 Q. No, the exhibit is 2A. It's page 10
23 of 2A. All right. You're on the right page,
24 right there.
25 A. Okay.

1 Q. See the heading "Confidentiality and
2 Conduct"?

3 A. Oh, okay. The document marked 2A. I'm with
4 you now. Confidentiality and Conduct. Yep. Yes,
5 I see it.

6 Q. Was this something that you were
7 presented and signed, or was this a negotiated
8 paragraph?

9 A. I don't remember negotiated -- that I
10 negotiated about this. I don't remember a
11 negotiation.

12 Q. Do you recall agreeing that:
13 (Reading)

14 At all times you would
15 refrain from taking any
16 action or making any
17 statements, written or oral,
18 which are intended to or do
19 disparage the goodwill or
20 reputation of the Company,
21 its directors, officers,
22 executives or which could
23 adversely affect the morale
24 of company employees?

25 A. Well, that's what I said -- that's what it

1 says, and I signed it. Yeah, I read it.

2 Q. Did you ever believe you did anything
3 that approached that?

4 A. No.

5 Q. Has anyone ever accused you of doing
6 that?

7 A. No.

8 Q. This '88 agreement, were there any
9 subsequent agreements entered into? Other than
10 the addendum that's --

11 A. Other than the addendum, I don't believe so,
12 no. I believe this is the one that was in effect
13 with the addendum at the time I left the company.

14 Q. So the 2C letter that was marked is in
15 reference to this agreement?

16 A. Yes, sir, I believe that's correct, yes.
17 That was my understanding at the time. Yes.

18 MR. MAISTROS: Can we just have a
19 stipulation that 2A, B and C are authentic copies
20 of the actual employment agreement, the addendum,
21 and the separation agreement?

22 MR. BELASIC: Yes.

23 MR. MORROW: I assume we've got an
24 agreement that he gets that when he gets the
25 originals of those back?

1 THE WITNESS: Yeah, I would like them
2 back.

3 MR. MAISTROS: Yes. If we can make a
4 note 2A, B and C are to be returned to the
5 witness, the originals.

6 I'll just turn them sideways in 2,
7 okay?

8 (PLAINTIFF'S EXHIBIT NUMBER 2D WAS MARKED FOR
9 IDENTIFICATION)

10 BY MR. MAISTROS:

11 Q. I have an exhibit that -- it's
12 attached to a memo on inclement weather
13 notification, which I think is an accident; you
14 can tell me if it is. It's a one-page document
15 I'll mark 2D. And ask if you have any objection
16 to me unstapling it from the previous memo as a
17 stand-alone document?

18 A. Let's see what it says.

19 (WITNESS REVIEWS DOCUMENT)

20 MR. BELASIC: I have no objection,
21 particularly, if you want to question him about
22 their weather suspension policy.

23 THE WITNESS: I have no problem with
24 you separating these two. That's obviously a
25 mistake.

1 BY MR. MAISTROS:

2 Q. That's obviously a separate document?

3 A. I agree, it's a mistake. Somehow it got
4 stapled together.

5 Q. 2D is dated November 9th, 1990?

6 A. Uh-huh.

7 MR. BELASIC: Let me put in an
8 objection before you start. To the extent that
9 any of your questions deal with lobbying, I would
10 object to those lobbying questions on the grounds
11 that they're both irrelevant, lobbying is not in
12 the complaint, and they're barred by First
13 Amendment law and the Knorr-Pennington Doctrine,
14 and that's K-N-O-R-R, dash, P-E-N-N-I-N-G-T-O-N.

15 BY MR. MAISTROS:

16 Q. Now, this appears to be the first page
17 of a memo without subsequent pages, although it
18 doesn't say who it's from and I cannot tell if
19 there's additional pages. But it seems as though
20 there should be an ending somewhere or something.
21 Can you tell by looking at this document?

22 A. I can't tell.

23 Q. Do you know if you authored this
24 document?

25 A. I doubt it. I mean, It's written on

1 Griscom's letterhead. I wouldn't have his
 2 letterhead in my office.
 3 Q. Do you know why you would have been
 4 copied on it?
 5 A. I do not know why I was copied on it.
 6 Q. Do you know what story is referenced
 7 in the first paragraph on Philip Morris?
 8 A. I don't recall.
 9 Q. The second paragraph refers to
 10 election smoking issue in Montana. Do you see
 11 that?
 12 A. Let me read it a second.
 13 (WITNESS READS DOCUMENT)
 14 Okay, what's your question about, sir?
 15 Q. It talks about the defeat of
 16 Initiative 115 in Montana by a 61 to 39 percent
 17 vote. And it states: (Reading)
 18 Although this was a
 19 total Industry effort, RJR
 20 Public Issues and Government
 21 Relations played a key role
 22 in overall campaign strategy
 23 and execution.
 24 Was RJR Public Issues and Government
 25 Relations RJR Nabisco or Tobacco?

1 A. I don't know. I can't tell from reading
2 this.
3 Q. Then it goes on. (Reading)
4 Which included:
5 extensive direct contact
6 effort using mail and
7 telephone utilizing a joint
8 industry database --
9 Do you know what joint industry database
10 RJR had access to in 1990?
11 A. I don't know. No, I don't.
12 Q. (Reading)
13 -- (primarily RJR's),
14 ongoing adjustments in the
15 last ten days, particularly
16 in media advertising, to
17 capitalize on emerging
18 events, and utilization for
19 the first time of a campaign
20 strategy team concept with a
21 new campaign director at T.I.
22 Who was -- where was T.I.?
23 A. I assume that's the Tobacco Institute, but I
24 don't know for sure. That would be my
25 speculation, I guess.

1 Q. Do you know what the reference to the
2 defeat of Initiative -- the initiative in Oregon
3 is to by a 58 to 42 percent vote?

4 A. Huh-uh.

5 MR. MAISTROS: I'll just put that
6 into -- if no objection, sideways with the other
7 ones.

8 Out of Exhibit 4, there is a document
9 dated July 16th, 1991. I'll mark it 4A.

10 (PLAINTIFF'S EXHIBIT NUMBER 4A WAS MARKED
11 FOR IDENTIFICATION)

12 BY MR. MAISTROS:

13 Q. I believe it's from Mr. DiMarco to
14 you. I ask if you recall receiving that document?
15 (WITNESS REVIEWS DOCUMENT)

16 A. Yes, I do remember receiving this. Uh-huh.

17 Q. Although it's a three-page memo, is
18 it -- is it unfair to characterize the memo as --
19 it's Dr. DiMarco, is it not?

20 A. Dr. DiMarco.

21 Q. -- Dr. DiMarco of having concern about
22 reducing resources in research and development?

23 MR. BELASIC: I object to the form,
24 having the witness characterize the memo that he
25 didn't write.

1 BY MR. MAISTROS:

2 Q. Why don't you tell me what your
3 understanding of the memo was.

4 (WITNESS READS DOCUMENT)

5 A. Well, I think it's a statement of his belief
6 about necessary resources to carry out the mission
7 of the R & D department. That's the way I would
8 characterize it.

9 Q. Would this relate to the strategic
10 plan that was previously marked as Exhibit 27?

11 A. I can't be sure of that.

12 Q. At least in the time frame, would it
13 be consistent with reference to that plan?

14 A. Well, it certainly is after that plan was
15 drafted. It's possible there was another draft of
16 this plan, though, prior to this letter. Or a
17 revision of it, you know. That's what I mean by I
18 can't be sure he's referring to the October 1990
19 version.

20 Q. Why did DiMarco leave Reynolds?

21 A. Why did DiMarco leave Reynolds? He left
22 after I did. I don't know why he left.

23 Q. Do you know whether it was voluntary
24 or involuntary?

25 A. I do not know.

1 Q. In the -- also in Exhibit 4, I'll mark
2 4B as a -- it may be out of order; it is stapled
3 together. But it's entitled Performance Record,
4 and Record Supplement.

5 MS. KNISELY: Yes, the copy is out of
6 order.

7 MR. MAISTROS: I'll mark it 4B.
8 (PLAINTIFF'S EXHIBIT NUMBER 4B WAS MARKED
9 FOR IDENTIFICATION)

10 BY MR. MAISTROS:

11 Q. It would appear to be a performance
12 record of you --

13 A. Uh-huh.

14 Q. -- dated December 5th, 1991. Do you
15 recall that performance review?

16 (WITNESS REVIEWS DOCUMENT)

17 A. Uh-huh. I recall this, yes.

18 Q. There's a reference on the first page
19 to under "Market Share, See detail included in J.
20 W. Johnston's 1991 PR-1"?

21 A. Uh-huh.

22 Q. What's that in reference to?

23 A. That would be a similar document such as this
24 one that says "Performance Record Form PR-1," only
25 for James W. Johnston as opposed to David K.

1 Isbister.

2 Q. Was there anything in these objectives
3 and achievements that you disagreed with in 1991?

4 A. The answer is no. I felt that the evaluation
5 I received for 1991 was fair. If that's what
6 you're asking. I think that's what you're asking.

7 Q. Underneath the second page, underneath
8 "Achievements". See paragraph 8?

9 A. Uh-huh.

10 Q. It says, "XD-E project established
11 jointly with RJRTI." What's the XD-E project?

12 A. That's the Alpha type product. I think I
13 mentioned that this morning, that we had a
14 joint -- or a project related to trying to get
15 that Alpha technology in -- into Europe. And we
16 were working with our own international company on
17 that.

18 Q. So what is RJRTI?

19 A. Tobacco International. R.J. Reynolds Tobacco
20 International.

21 Q. On the previous page, underneath
22 "Program Continued"?

23 A. Uh-huh.

24 Q. It says, "Implement MPET on Winston
25 nationally". What was that?

1 A. MPET was a new over-wrap film for cigarette
2 packages.
3 Q. The cellophane?
4 A. Well, it's not cellophane. It's actually
5 metallized polyester. That's what MPET stands
6 for.
7 Q. Is it clear? Is that the stuff that
8 wraps --
9 A. No, it's printed. It's printed.
10 Anybody got a pack of Win -- of
11 Reynolds cigarettes?
12 You can see what it looks like. It's
13 on the outside of John's pack there. That's not a
14 clear film, that's a printed film.
15 Q. Oh.
16 Now, what is the "APET" -- next to
17 that, "APET" on Winston implemented?
18 A. Uh-huh. Yeah. That -- that looks like a
19 typo. I think that should be MPET. I don't
20 remember. It could -- it could have been a second
21 version of the film or something. But that's
22 basically saying that the -- on the left side, the
23 goal was to get it on Winston by year end. And on
24 the right side it says we achieved that by mid
25 August. That's the "How did you do against the

1 goal?" column.
2 Q. Did these objectives -- well, there's
3 "Company Financial," "Individual Financial,"
4 "Market Share" and then there's "Program"?
5 A. Uh-huh.
6 Q. Do you see that?
7 A. Yeah.
8 Q. Underneath "Program" there's three
9 objectives. This is -- these are only the
10 objectives of this particular department that you
11 had supervisory responsibility over, this
12 technology, leaf?
13 A. I'm sorry you've lost me a little on the
14 "Programs" piece. Go through that. Are you
15 talking about down at the bottom here, where it
16 shows the three, or what are you referring to?
17 Q. Actually if you -- my first page is --
18 lists at the bottom "Program," then it's got 1 on
19 the first page, and then 2 and 3 carried over.
20 A. Okay. 1, 2 and 3. Right. Okay, I'm with
21 you.
22 Q. Does all of this pertain solely to
23 technology, leaf, tobacco processing and
24 packaging?
25 A. Yes. Yeah, this is basically a -- a score

1 card or a grade for me, for my performance in
 2 1991. That's what this document is all about.
 3 Q. Didn't you have any -- did you have
 4 similar ones for other positions you held?
 5 A. Yes. Uh-huh.
 6 Q. Are they in here anywhere?
 7 A. No. I mean, I just happened to save the last
 8 one before I left.
 9 Q. Where would the other ones be?
 10 A. Well, I don't know. I mean, somewhere in the
 11 company records, probably, if they keep them. I
 12 don't even know if they keep them.
 13 Q. There's a letter from -- a long letter
 14 from -- three pages of attachments, which I'm not
 15 sure should be attached, or it was in the copying
 16 process upstairs. You can tell me. I'll mark it
 17 4C.
 18 (PLAINTIFF'S EXHIBIT NUMBER 4C WAS MARKED
 19 FOR IDENTIFICATION)
 20 BY MR. MAISTROS:
 21 Q. It's from Johnston to you, dated
 22 May 24th, 1991. You tell me if anything should be
 23 attached beyond the first three pages.
 24 (WITNESS REVIEWS DOCUMENT)
 25 A. Yeah, this was a total package, as I received

1 it from Johnston, right here.

2 Q. Okay. What is that letter -- the main
3 purpose of that letter and the package attached in
4 May of '91?

5 A. The main purpose of this was that we were
6 faced from -- with some financial shortfalls for a
7 variety of reasons and we needed to do what we
8 could to address those shortfalls. That's the way
9 I would summarize this.

10 Q. Now, in the back there's an attachment
11 of "Focussed Enterprise Initiatives". Do you see
12 that?

13 A. Uh-huh. Yes.

14 Q. Is this essentially who's responsible
15 for making certain, certain things get done?

16 A. I would say for those responsible for
17 deciding what should be done in certain areas. Or
18 making a plan; let's put it that way.

19 Q. And DKI is you?

20 A. That's right.

21 Q. How far did you get along in this
22 before you left the company?

23 A. Well, a fair -- fair piece. I mean, you
24 know, we worked on this in '91, before I left.

25 Q. Did you respond in writing to this

1 document?
2 A. I did. I recall I did.
3 Q. Is that in here?
4 A. I think it was in there. It should have been
5 in there. Did you not see anything in there
6 related to a response to that?
7 (DOCUMENT HANDED TO WITNESS FOR REVIEW)
8 I thought I responded to this. Here.
9 Here it is.
10 MR. MAISTROS: I'll mark that 4D.
11 (PLAINTIFF'S EXHIBIT NUMBER 4D WAS MARKED
12 FOR IDENTIFICATION)
13 BY MR. MAISTROS:
14 Q. 4D is your response, then, to the
15 May 24th letter to you?
16 A. Uh-huh. It's dated May 28th.
17 Q. Now, are these -- 4C and 4D appear to
18 be accurate -- well, actually -- I can't tell.
19 Are these originals?
20 A. Let's see. The letter from Johnston, I'm not
21 certain whether it's an original or not. You
22 know, it's a little hard to tell from that
23 signature right there.
24 Q. Does it appear to be at least an
25 accurate copy of the letter you received from

1 Johnston?
2 A. Yes, I believe it to be.
3 Q. And your response is an original, is
4 it not?
5 A. Yes, it is.
6 Q. And that -- both of these were records
7 that were kept by you in the ordinary course of
8 your business at Reynolds?
9 A. Uh-huh.
10 Q. Let me have that file back.
11 A. Which one? That one?
12 (DOCUMENTS HANDED BACK TO COUNSEL)
13 MR. MAISTROS: Where did I get the
14 "Inclement Weather" memo out of?
15 THE WITNESS: I don't know.
16 MS. KNISELY: I think it was --
17 MR. MAISTROS: 4?
18 MS. KNISELY: No, I think it was 2.
19 MR. MAISTROS: I didn't mark it,
20 so ...
21 I have no further questions. But I
22 understand Sherrice wants to ask some questions,
23 and your court order allows two attorneys to
24 question, and I understand it's going to be brief.
25 So, if you want to take a break, let me know. If

1 not ...

2 MR. MORROW: Let's take a short one.

3 THE WITNESS: Okay.

4 VIDEOGRAPHER: We're going off the
5 record at 5:43 p.m.

6 (RECESS TAKEN FROM 5:43 P.M. TO 6:00 P.M.)

7 VIDEOGRAPHER: This is tape 4 of the
8 videotape deposition of David Isbister. We're
9 going back on the record at 6:00 p.m.

10 EXAMINATION

11 BY MS. KNISELY:

12 Q. Mr. Isbister, my name is Sherrice
13 Knisely. I, also, represent the plaintiffs. I
14 just have a few questions for you. I'll try and
15 make it brief.

16 A. Okay.

17 Q. As with Jack Maistros, when he
18 questioned you, if there's anything you don't
19 understand or anything you want repeated, please
20 let me know. If there's any time you want to
21 speak with your counsel, please also let me know,
22 or if you want to take a break.

23 A. Okay.

24 Q. I'd like to refer you, and I asked the
25 court reporter to put on top, what was marked as

1 4B.

2 A. Uh-huh.

3 Q. And that is your 1991 performance
4 record.

5 A. Right.

6 Q. If you would, turn to page 3 of the
7 third, numbers -- Program Objective number 7. It
8 talks about "Take the lead role in the Total
9 Quality First Process."

10 What was the Total Quality First
11 Process?

12 A. Well, that was a cross-functional effort
13 across the company to improve the quality of our
14 products and the way we did business.

15 Q. Improve the quality of the products
16 how?

17 A. Well, in every way. I mean, the -- the
18 uniformity, the taste, I mean, consumer
19 acceptance.

20 Q. Anything else involved in that
21 particular program or process or referred there,
22 in terms of improving the quality of the product?

23 A. Well, the processes that make it, the
24 equipment. You know, there was a long -- very
25 large list of projects that were generated as a

1 part of that total effort.

2 Q. Anything involved in that particular
3 Total Quality First Process involved in reducing
4 the health risks associated with the product?

5 A. Well, that -- that type of work would have
6 been included as part of this effort, yeah.

7 Probably the major emphasis of this
8 project was in the manufacturing, however. There
9 were -- there were also components of it in
10 marketing and in R & D and so forth. But the
11 major thrust of this one was in the manufacturing,
12 I believe.

13 Q. Paragraph 6 also talks about
14 "implement pay for performance for all salaried on
15 a pilot scale in R & D"?

16 A. Uh-huh.

17 Q. What was that?

18 A. Well, this kind of a document here, which
19 establishes objectives and rates people, was used
20 in the management levels of the company. And so
21 you had a base pay and you had a bonus, depending
22 on -- on how you were rated against these
23 objectives.

24 What we were looking at doing there,
25 as I recall it, was to carry that process all the

1 way down to all salaried employees, which would
2 have included, not just management people, but
3 everyone's salary in the company, which would be a
4 much, much larger group. And what this refers to
5 is a pilot program in R & D as a place to start
6 that.

7 Q. Prior to 1991 this type of performance
8 evaluation was not done for those salaried in
9 R & D?

10 A. Oh, yes, a performance evaluation was done;
11 but there was not compensation tied to the
12 outcome, as there was here, for me, for example.

13 Q. So I take it, when it says, under
14 Achievements, "R & D program implemented in all
15 areas," that means, as of 1991, there were added
16 bonuses or compensation for objectives achieved in
17 R & D?

18 A. I'm not certain of the details of that. I
19 think, reading this today, the pay part, the bonus
20 or pay piece of that, may have been March 1, the
21 following year, as I read this thing on paragraph
22 6 on the right-hand side. "All salary increases
23 change to March 1 effective date."

24 Q. So --

25 A. I think -- I think that suggests to me

1 that -- my recollection is we wanted everybody to
2 get pay increases on the same dates, so that we
3 could tie it into a bonus program like this. And
4 that probably meant that the first payouts on that
5 were not until actually '92. March of '92, would
6 be my guess.

7 Q. So, as of March of 1992, R & D
8 personnel would receive -- or could receive
9 various bonuses as compensation for objectives
10 they had achieved --

11 A. Yeah --

12 Q. -- in their performance evaluations?

13 A. That's the way I recall it. But I -- of
14 course I wasn't there in March '92, so I don't
15 know whether that occurred or not.

16 Q. What types of -- strike that. What
17 was the range of bonuses, in terms of dollar
18 amounts, that R & D personnel could earn?

19 A. I don't recall. I don't know.

20 Q. Was there a uniform scale?

21 A. I don't know that either. I mean, I can't
22 remember.

23 Q. Was it something that the R & D
24 personnel would have known, say, at the beginning
25 of 1992, for example, what they could earn as a

1 bonus by the end of 1992?

2 A. Well, yeah. Probably would have been paid in
3 March of '93. But, yeah. You earn --

4 Q. But they would have known in advance?

5 A. This thing was actually paid to me after the
6 first of the year, you see. You had -- you had to
7 get the final score card and all that done, and
8 then they -- and then it would be paid. I believe
9 that's correct.

10 Q. But you knew, in advance, what -- what
11 the range might be?

12 A. That was the plan. Now, what the outcome
13 was, I do not know.

14 Q. What types of things would R & D
15 people get bonuses for?

16 A. Well, for achievement of objectives, the
17 objectives being what they were going to
18 accomplish during the year.

19 Q. And each employee in R & D worked with
20 their immediate supervisor to put forth and set
21 forth their objectives for the upcoming year?

22 A. That was -- that was the intent, right.

23 Q. Other than the immediate supervisor of
24 an employee, did anybody else up the chain of --
25 of command, so to speak -- or I guess I shouldn't

1 use that; that will probably be objected to.

2 Up the chain in terms of seniority or
3 responsibility, did anybody else look at an
4 employee's performance record?

5 A. Usually one up review. In other words, the
6 people I scored, you know, my boss would review,
7 and so forth.

8 Q. Did that person one up also have an
9 input in the objectives that were designed?

10 A. Could have, uh-huh. Yeah.

11 Q. You mentioned -- I believe, during the
12 time that you were plant manager, from December
13 '85 through March of '87, you mentioned that
14 flavorings were assembled elsewhere and had a code
15 number or name on the specification sheets?

16 A. Uh-huh.

17 Q. Where were those flavorings assembled?

18 A. Well, some were, I believe, purchased, you
19 know -- some of them were purchased outside -- our
20 components were purchased outside the company.
21 And then there was a flavoring facility, which
22 actually -- how should I say, mixed them together
23 to get the final flavoring material.

24 Q. And where was that flavoring facility
25 located?

1 A. It was in downtown, Winston-Salem; it was
2 called 64 flavoring. And then, I think, actually
3 it moved. We built a new facility in the Whitaker
4 Park complex.
5 Q. In where, I'm sorry?
6 A. In the Whitaker Park cigarette factory
7 complex on Reynolds Boulevard. And I can't give
8 you the exact time it moved, but there was a new
9 facility built for -- for that purpose.
10 Q. Is that still in operation?
11 A. I have no idea.
12 Q. To your knowledge, has RJR always had
13 the flavorings assembled separate and apart from
14 the manufacturing plants?
15 A. I believe that's correct, since I joined the
16 company. I don't know what was done prior to
17 then.
18 Q. Do you know who supplies those
19 flavorings -- or that flavoring plant, 64
20 flavoring, with the ingredients or the equivalent
21 of the specification sheet for each flavoring?
22 A. No, I don't.
23 Q. Do you know who would?
24 A. No, I don't.
25 Q. You also said that -- that the

1 specification sheets for the cigarettes had code
2 numbers or names for the various flavorings. Do
3 you know where the key would be for that code?

4 A. I believe there would be somebody in the
5 R & D department who knew those formulations.

6 Q. Do you know who --

7 A. And also somebody in the flavoring
8 compounding facility who had those formulations.

9 Q. Do you know --

10 A. They were -- they were designed by R & D
11 and -- and -- but of course the flavoring
12 facility, you had to have access, so they could
13 put the -- put the material together.

14 Q. When you say "flavorings," what
15 substances do you include in flavorings?

16 A. You know, I don't know the individual
17 compounds. I was not privy to that information.

18 Q. Do you include nicotine in flavorings?

19 A. No, I don't think nicotine would be
20 considered a flavoring. I never thought of it as
21 a flavoring.

22 Now, I want to -- I want to make one
23 side point on that, because of something I saw on
24 television a long time ago. Nicotine was used to
25 denature ethyl alcohol, which is -- was the

1 carrier for top dressing formulations. In other
2 words, a solvent. The purpose of nicotine in the
3 ethyl alcohol was so that people would not steal
4 it and drink it or buy it or try to trade it; it
5 would make you sick if you drink it. And it was
6 minute quantities.

7 The reason I make such a fuss about
8 that, is that that got featured on one of the
9 evening news shows as spiking cigarettes with
10 nicotine. That's a wholly different matter.

11 So you asked me if nicotine is a
12 flavorant. I will tell you nicotine was used in
13 the top dressing carrier as a denaturing agent,
14 but not as a flavorant, to my knowledge.

15 Q. To your knowledge, nicotine's never
16 been used as a flavorant in cigarettes?

17 A. Not to my knowledge.

18 Q. I believe you testified you have three
19 children --

20 A. Yes.

21 Q. -- is that correct?

22 Have any of them worked for
23 R.J. Reynolds?

24 A. No.

25 Q. R.J. Nabisco?

1 A. No.

2 Q. How is it that you came to have
3 Mr. Morrow represent you for the purposes of this
4 deposition?

5 A. You mean why did I pick John --

6 Q. Yes.

7 A. -- for my lawyer?

8 Because he represented me in a divorce
9 case about 18 or 20 years ago and did a hell of a
10 job for me.

11 Q. I noticed that -- or I understood your
12 prior testimony that you had met with Mr. Belasic,
13 Mr. Holton, Marilyn Forbes and another attorney
14 for Reynolds, Chris, and you can't recall that
15 person's last name. Was that a he or a she?

16 A. It was a he.

17 Q. I believe you met with them before
18 today on two different occasions. Can you
19 describe for me the content of the conversations
20 you had with them?

21 MR. BELASIC: No, he can't. Object to
22 the question on the grounds of attorney/client
23 privilege.

24 I represent Reynolds. Mr. Isbister is
25 a former employee of my client. To the extent any

1 of the discussions have to do with Mr. Isbister's
2 performance and his employment while he was
3 employed for my client, it's -- it's covered by
4 the attorney/client privilege and, as an attorney
5 for Reynolds, I'd instruct him not to answer.

6 MS. KNISELY: I will also ask this in
7 order to make a record.

8 BY MS. KNISELY:

9 Q. During the course of today, have you
10 spoken with any counsel about this deposition,
11 other than Mr. Morrow or Mr. Kurtz?

12 A. Huh-uh.

13 Q. You have not spoken during any breaks
14 or lunch with Mr. Belasic about this deposition or
15 the subjects being discussed today?

16 A. I -- I can't say I didn't make a casual
17 remark like, "How's it going, Okay?" Or something
18 like that. But not -- not -- not in detail.

19 I do remember asking John and Mark to
20 see about getting some of these documents marked
21 confidential. But I -- other than that, I don't
22 recall anything else.

23 Q. Are there any of the documents that
24 you have produced here today that you would like
25 to designate confidential that are of a personal

1 nature?

2 MR. MORROW: Yes, we want to designate
3 all of the documents in Exhibit 4, such as 4A, 4B,
4 4C, 4D and so on. I think we've also made it
5 clear that we want to designate all of his
6 personnel records, all of his pay records, all of
7 his retirement records, about 90 percent of what's
8 sitting here. But I think we made that clear
9 earlier, don't you, Ms. Knisely?

10 MS. KNISELY: I was just asking the
11 witness if there was anything else he wanted to
12 add, so that we can protect the personal nature of
13 his documents.

14 I don't believe that there are any
15 other questions that I have, but we do thank you
16 for your time.

17 THE WITNESS: Okay.

18 MR. BELASIC: I've got two questions,
19 Mr. Isbister. I'm Mark Belasic for R.J. Reynolds
20 Tobacco Company.

21 EXAMINATION

22 BY MR. BELASIC:

23 Q. Nicotine is not -- is not added or at
24 least -- was not added during your tenure at
25 Reynolds to cigarettes as a flavorant; is that

1 right?

2 A. Not to my knowledge.

3 Q. The natural nicotine, however, that
4 occurs in tobacco, that does affect the flavor of
5 the cigarette, doesn't it?

6 A. I believe it does.

7 MR. BELASIC: That's all I have.

8 EXAMINATION

9 BY MS. KNISELY:

10 Q. And what is that knowledge based upon?

11 A. The answer to the second question --

12 Q. Yes.

13 A. -- are you talking about?

14 It's based on reading, over the years,
15 results of taste testing studies and studies, you
16 know, on products. That's the best way I can
17 describe it.

18 Q. And who had done those taste testing
19 studies?

20 A. The R & D. In -- well, the taste testing
21 actually is done by the marketing research
22 department. They field the studies to evaluate
23 tests, you know, the taste of our products.

24 Q. And you said you've been reading those
25 for years? During what period of time?

1 A. Well, during the time I was in charge of
2 R & D, I read a number of them. When I was in
3 process engineering. Even in manufacturing. I
4 mean, taste studies on cigarettes of ours and our
5 competitors were pretty widely read, because we
6 wanted to know how we stacked up.

7 MS. KNISELY: I don't have any other
8 questions.

9 MR. BELASIC: Before we go off the
10 record, just on behalf of Reynolds, I want to make
11 sure that Exhibits 1, and 20 through 25 are
12 designated as confidential under the court's
13 protective order.

14 MS. KNISELY: One and -- I'm sorry.

15 MR. BELASIC: Exhibits 1, and 20
16 through 25.

17 And to the extent there's some mixup
18 on exhibit numbers, or I just haven't been keeping
19 track, that should be the phone books, the
20 Rollodex and Mr. Isbister's calendars.

21 VIDEOGRAPHER: Is that all? We're
22 going off the record at 6:19 p.m.

23 (SIGNATURE RESERVED)

24 (DEPOSITION CONCLUDED AT 6:19 P.M.)

25

1 JURAT
2 I, David Isbister, do hereby
3 certify that I have read the foregoing transcript
4 of my testimony, taken on Wednesday, August 20,
5 1997, and have signed it subject to the following
6 changes:

7 PAGE LINE CORRECTION

8
9
10
11
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14
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16
17

18 _____
19 David Isbister

20
21

22 DATE:

23 Sworn and subscribed to before me on this _____
24 day of _____.

25 NOTARY PUBLIC _____

1
2 STATE OF NORTH CAROLINA
COUNTY OF YADKIN

3
4 REPORTER'S CERTIFICATE

5 I, Linda N. Russell, a Notary Public in and
6 for the State of North Carolina, do hereby certify
7 that there came before me on Wednesday, August 20,
8 1997, the person hereinbefore named, who was by me
9 duly sworn to testify to the truth and nothing but
10 the truth of his knowledge concerning the matters in
11 controversy in this cause; that the witness was
12 thereupon examined under oath, the examination
13 reduced to typewriting under my direction, and the
14 deposition is a true record of the testimony given
15 by the witness.

16 I further certify that I am neither
17 attorney or counsel for, nor related to or employed
18 by, any attorney or counsel employed by the parties
19 hereto or financially interested in the action.

20 IN WITNESS WHEREOF, I have hereto set my
21 hand and affixed my official notarial seal, this the
22 2nd day of September 1997.

23
24 AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA
Linda N. Russell, Notary Public
25 Certified Shorthand Reporter

